CLERK'S COPY. 312

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 318.

ROBERT E. DOWNS, PETITIONER,

vs.

THE UNITED STATES.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT.

PETITION FOR CERTIORARI FILED APRIL 30, 1902.
CERTIORARI AND RETURN FILED JUNE 3, 1902.

(18,519.)

3121

(18,519.)

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TRANSCRIPT OF RECORD.

UNITED STATES OF AMERICA, } To-wit;
DISTRICT OF MARYLAND, }

At a Circuit Court of the United States for the Fourth Circuit, in and for the District of Maryland, begun and held at the Courthouse in the city of Baltimore, on the first Monday of April, being the first day of the same month, in the year of our Lord one thousand, nine hundred and one.

Present: The Honorable THOMAS J. MORRIS, Judge of the Maryland District; JOHN C. ROSE, ESQ., Attorney; WILLIAM F. AIREY, ESQ., Marshal; JAMES W. CHEW, Clerk.

Among other were the following proceedings, to-wit:

Robert E. Downs
against
The United States.

Appeal from the Decision of the Board of United States General Appraisers.

PETITION OF ROBERT E. DOWNS FOR A REVIEW OF THE DECISION OF THE BOARD OF UNITED STATES GENERAL APPRAISERS RENDERED ON APRIL 19, 1901.

(2) Filed May 15th, 1901.

UNITED STATES CIRCUIT COURT, DISTRICT OF MARYLAND.

Robert E. Downs
against
The United States. } Petition.

To the Honorable the United States Circuit Court for the District of Maryland:

Your petitioner, being dissatisfied with the decision of the Board of United States General Appraisers, rendered on April 19, 1901, and within thirty days next preceding

the date hereof, as to the construction of the law and the facts respecting the classification of and the rate of duty imposed on certain Russian sugar imported per S. S. Assyria, entered July 6, 1899, entry No. 3,663, and covered by protest 41,483 B–868 of your petitioner against the decision of the Collector of Customs at Baltimore, Maryland, as to the rate and amount of duties chargeable thereon, respectfully prays the Honorable Circuit Court to review the questions of law and fact involved in such decision, and to order the Board of Appraisers to return to the Honorable Circuit Court the record and the evidence taken by them, together with a certified statement of the facts involved in the case, and their decisions thereon.

For a concise statement of the errors of law and fact complained of, your petitioner respectfully shows to the Hororable Court that the Board of General Appraisers has affirmed the decision of the Collector of the Port in assess-
(3) ing and levying on the sugar aforesaid an additional or countervailing duty, so called, equal to R. 50-100 per pood, thereby making errors of law and fact by failing to find or finding the contrary of the following propositions:

1. The country dependency or colony from which the said sugar was exported does not, and at all times relevant to this proceeding did not, pay or bestow, directly or indirectly, any bounty or grant upon the exportation of the said sugar.

2. The country dependency or colony from which the said sugar was exported does not, and all timee relevant to this proceeding did not, pay or bestow, directly or indirectly, any bounty or grant upon the exportation of the said sugar, within the meaning and scope of section five of the Tariff Act of July 24, 1897.

3. There is no authority in said section five for the assessment or exaction of the aforesaid additional or countervailing duty.

4. The assessment or exaction of said additional duty, or of any duty except as prescribed in paragraph 209 of said act, was and is unwarranted by statute.

Dated Baltimore, May 15th, 1901.

ROBT. E. DOWNS,
Petitioner.

ERNEST A. BIGELOW,
Atty. for Petitioner.
35 Nassau Street,
New York City.

A copy of which said petition for appeal was delivered to the Marshal to be served on the defendant.

MARSHAL'S RETURN.

Endorsed on original petition of Robert E. Downs:

"Served a copy of the within petition and statement of appeal upon William F. Stone, Collector of Customs for (4) the Port of Baltimore, Md., this 15th day of May, 1901.

WILLIAM F. AIREY,
United States Marshal.

ORDER OF COURT THEREON.

Filed May 16th, 1901.

At a stated term of the United States Circuit Court for the District of Maryland, held in the United States Court-House, in the City of Baltimore, on the 16th day of May, 1901.

Present: Honorable THOMAS J. MORRIS, Judge.

Robert E. Downs against The United States } Order.

Upon reading and filing the annexed petition, a copy of which appears to have been served upon the Collector of Customs for the Port of Baltimore, and upon motion of Ernest A. Bigelow, attorney for the petitioner, it is

Ordered, that the Board of the United States General Appraisers, sitting at the Port of New York, return to this court the record and the evidence taken by them in the matter of Protest 41,483 B–868 of Robert E. Downs against the decision of the Collector of Customs at Baltimore, Maryland, as to the rate and amount of duties chargeable on certain Russian sugar imported per S. S. Assyria, and entered July 6, 1899, entry No. 3,663, together with a certified statement of the facts involved and their decisions thereon.

Dated Baltimore, May 16th, 1901.

THOS. J. MORRIS, Judge.

(5) A certified copy of the foregoing order of court having been sent to the Board of United States General Appraisers, said Board made return thereto as follows, to-wit:

RETURN OF THE BOARD OF UNITED STATES GENERAL APPRAISERS.

(6) Filed June 11, 1901.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

In the Matter of the Application of Robert E. Downs for the Review of a Decision of the Board of U. S. General Appraisers, as the rate, etc., of duty on certain sugar imported per S S. Assyria July 6, 1899.	Suit No. 1491.

Return of the Board of United States General Appraisers to the order of Hon. Thomas J. Morris, District Judge, Dated New York, June 10, 1901.

The Board of United States General Appraisers, sitting at New York, in response to the order of the court in the above matter, make the following return of the record and evidence taken by them in the above matter and of the facts involved therein, as ascertained by them.

They state that a letter, hereto annexed as Exhibit A, was received from the Collector of Customs at Baltimore, Md., submitting, under the provisions of Section 14 of the act of June 10, 1890, the protest marked Exhibit B, and described as follows:

Colls. No.	Board No.	Protestants.	Vessel.	Date of Entry.
868.	41483-B.	Robert E. Downs.	Assyria.	July 6-'99.

(7) An agreement upon the facts material to the case was entered into between the counsel for the parties, and being submitted to the board at the hearing, was received in evidence, made part of the record and considered in their *their* decision herein. A copy of the same is annexed as Exhibit C.

Minutes of the proceedings before the board under date of April 2, 1901, and copies of the Consular Reports therein referred to are annexed as Exhibit D, and copies of the Congressional Record, dated Feb. 26, 1901, and Senate Document No. 171, 56th Congress, 2d Session, are returned under a separate cover marked "Exhibits in Suit No. 1491."

On April 19th, 1901, the board rendered its decision upon said protest. A copy of the opinion is annexed as Exhibit E.

EXHIBIT "A."

C. S. B.

(8) Custom-House, Port of Baltimore, Md.,
July 31, 1899-189.

G. McC. R.:

I submit herewith the protest described below with the accompanying invoice and entry against my assessment of countervailing duty at the rate of 0.50 roubles per pood, (36.113 lbs.) equal to .007130397 per pound, on certain granulated sugar from Russia, claimed to be refined sugar, upon which no bounty has been paid, returned by the appraiser as sugar above No. 16 D. S., and assessed with countervailing duty under Sec. 5, Act of July 24, 1897, in accordance with Department rulings of Dec. 1, 1897, (S. 18721), & Dec. 12, Act 1898, (S.20407).

The requirements of Section 14, Act of June 10, 1890, have been complied with by the protester.

Respectfully yours,

WM. F. STONE,
Collector of Customs.

To the Board of U. S. General Appraisers, New York:

C. D. L. P.

No.	Name of Importer.	Vessel.	Date of Entry.
868 41483-B.	Robert E. Downs,	"Assyria,"	July 6, 1899.

I hereby concur in the above.

NORMAN B. SCOTT, JR.,
Naval Officer.

Note.—In transmitting protests, the requirements of Article 63, Regulations of August 7, 1890, should be strictly complied with. The number of enclosures should always (9) be stated, and in counting the same, each separate detached paper or group of papers (fastened together by pins, mucilage, or otherwise) should be counted as one.

No. of inclosures, one (1) set.

Endorsed:

41483-B.

Cat. No. 182.

Port of Baltimore,

, 189.

Collector of Customs.

Transmits Protest of

Miss Mengelson.

of inclosures, 4

Board of U. S.

General Appraisers.

Aug. 2, 1899.

EXHIBIT B.

(10) F. H. Shallus, Established 1869.

Custom-House Broker,

Forwarding Collection and Commission Agent,

No. 55 South Gay Street.

Baltimore, July 17th, 1899

No. 868.

Hon. Wm. F. Stone,

Collector of Customs,

City.

Sirs,—I do hereby protest against the payment of export bounty at the rate of 50-100 rouble per pood of 36.113 pounds on five bags of Russian refined sugar testing not less than 99% per pood imported by me per S. S. "Assyria," from Hamburg, July 5th, 1899, contained in entry No. 3,663, passed July 6th, 1899, and liquidated July 12th, 1899. Said bags being marked C. C., Nos. 25,704, 25,705, 25,706, 25,724 and 25,661.

Russia.

I claim that the sugar in question should pay duty only under paragraph No 309 of the Act of July 24th, 1897, at the rate of one and ninety-five hundreth cents per pound, as refined sugar. Exhibit B

I further claim that the provisions of section 5, of the said Act do not apply to this importation, as there is no evidence on either the invoice or certificate of production

showing that the sugar has paid an export bounty, but on the contrary, they particularly specify that no bounty has or will be paid, and, therefore, it does not and should not apply to this importation.

I further claim that the Government of Russia does not pay an export bounty on the exportation of refined sugar, but, on the contrary, an examination of her laws on (11) the manufacture of sugar will show that no encouragement whatever is given the manufacturer to manufacture any surplus stock for export, but the same is discouraged as far as possible.

I have paid the amount exacted in order to get possession of the goods, and claim to have the same refunded.

41483 B.

Very respectfully,

ROBT. E. DOWNES.

Custom-House, Baltimore, Md.,
Collector's Office Liquidating Dept.

Received this 18 day of July, 1899.

G. McC. R.,
for Collector.

Endorsed:

868.

Custom House, Baltimore, Md.,
Collector's Office, Liquidating Dept.

Received this 18 day of July, 1899.

G. McC. R.,
for Collector.

Protest:

Robt. E. Downs,

Russian Sugar.

Entry No. 3663.
S. S. Assyria.

Passed July 6, 1899.
Liquidated July 12, 1899.
Paid July 12, 1899.
Protested July 18, 1899.

EXHIBIT C.

(12) Copy.

It is hereby stipulated and agreed by and between the counsel for the Treasury Department before the Board of United States General Appraisers and counsel for Robert E. Downs, protestant in protest case No. 41483-B, that the translation of the Russian Law and Regulations, as set forth in the "Congressional Record," pages 3,335 to 3,338 inclusive, Vol. 34, No 64, Feb. 26, 1901, a copy of which is hereunto annexed, is a true and faithful translation of the said law and regulations, and contains the whole body of the Russian statutes so far as the same are relevant to the issues herein.

That there be added at the end of paragraph 3 of the law the following words, to-wit:

"The minister of finance will have the power to determine by additional resolution how the various requirements of the law stipulated in Section 1, 2 and 4 will be carried out in practice," which note seems to have been omitted in the printed copy of the law, and that all of the above be admitted in evidence as the said law and regulations.

And it is further stipulated that the reports of the American Consul at Odessa, Russia, dated Sept. 12th and 24th, 1900, be admitted in evidence.

The following statements from one to nine are also stipulated in evidence:

(13) (1) The Russian Government estimates the total consumption and the total production of sugar, and the total amount which may be put upon the market at the normal excise of R. 1,75 per pood is difinitely fixed at the total amount required for consumption. This is known as free sugar.

(2) The first 60.000 poods produced by each factory is free sugar. The balance of the production is divided into free sugar, obligatory reserve and free surplus or free reserve.

(3) The amount of free sugar in each factory is proportioned to its total production as the estimated consumption is to the total production of the country. This per centage is fixed by the Government according to the estimates of production and consumption.

(4) Under the Russian law therefore all sugar is divided into the three following classes:

(a) "Free Sugar," which consists of a certain quantity of sugar which the Russian government permits a factory or refinery to sell for home consumption under an excise tax of 1.75 rubles per pood.

(b) An "Obligatory or Indivertible Reserve" of sugar which consists of a certain quantity kept at each factory or refinery by order of the Government, and which may not be sold or removed without the special permission of the government.

(c) "Free Reserve or Free Surplus" which consists of such sugar as is manufactured over and above the quantity of "free sugar" and "obligatory or indivertable reserve."

(14) This sugar cannot be sold for home consumption, except upon payment of the regular tax of 1,75 rubles, and an additional tax of 1,75 rubles or 3,50 rubles in all.

And the Russian Government fixes and determines the following:

(a) The total quantity of sugar required for home consumption.

(b) The quantity of "free sugar" allowed to each factory and this "obligatory reserve" which each factory or refinery shall keep on hand.

(c) The maximum price at which sugar may be sold for domestic consumption.

(5) That the sugar which was imported in this case and which is covered by this protest consists of "free sugar" as above defined, and would have been subject to an excise tax of 1,75 rubles per pood if sold in Russia.

(6) That upon the exportation of said sugar from Russia, the Russian Government, under its laws and regulations, released said sugar from said tax of 1,75 rubles either by a refund of the tax or a cancellation of indebtedness or otherwise.

(7) That in addition to remitting said excise tax, the Government issued to the exporter a certificate certifying that he had exported such a quantity of so-called free sugar. That the said certificates have a substantial market value and are transferable, and that the price thereof is us-
(15) ually determined by the difference existing at the time between the price obtainable for the sugar on the home market and the price obtainable abroad.

(8) That said certificates are sold to and used by sugar manufacturers or refiners who are thereby enabled to transfer from their "free reserve" or "free surplus" to their "free sugar" an amount of sugar equal to the amount shown by said certificates to have been exported, which amount may then be sold for domestic consumption on paying the ordinary tax of 1,75 rubles per pood (to which free sugar is regularly subject) instead of a tax of 3,50 rubles per pood.

(9) That the import duty of sugar into Russia is 3 rubles per pood.

(Sd.) W. J. GIBSON,
Counsel for the Treasury Dept. before the Board of Gen. Appraisers.
ERNEST A. BIGELOW,
Counsel for the Importer.

EXHIBIT D.

(16) Before the Board of U. S. General Appraisers.

In the matter of the protest of Robert E. Downs, 41483–B.

New York, April 2, 1901.

Present: General Appraiser TICHENOR; General Appraiser FISCHER.

Appearances: W. J. GIBSON, Esq., for the Government; ERNEST A. BIGELOW, Esq., for the Importer; W. D. GOODWIN, Stenographer.

Counsel for the Government read a stipulation which he and counsel for the importers had agreed to, and asked that it be made part of the record in the case.

Same admitted and marked Exhibit 1,41483–B, April 2, 1901.

(17) Government counsel calls Board's attention to a report from the U. S. Consul at Odessa, Russia, as published in the Congressional Record, pp. 3338 to 3340, and offers the same in evidence.

Mr. GIBSON: My learned friend objects to putting this part of the report in evidence:

"The diverse conditions of soil and climate in the regions in which beet root is cultivated in Russia engenders considerable difference in the beet root crop as regards quantity and quality. This is the main cause of the great

difference in the cost of production of sugar in the factories, since in the price of the other materials and products required for the production of sugar the difference is not great. The technical conditions scarcely play an important part, as nearly all of the factories have the latest improved machinery. It is necessary also to remember that independently of territorial difference in the beet root crop nowhere is there such extremes observed as in Russia in this crop between one year and another, in consequence of unfavorable conditions for growth, thus making the cost at the factory much greater. (In Penil 1491–9.)

"This is why it may be noticed that in a given factory in a given year the *the* pood of sugar cost solely for its technical working 1 rouble and 55 kopecks, and in the next year, with the same amount of output, as much as 2 rou-
(18) bles per pood. On an average, therefore, it is permitted to draw such an average, the pood of sand sugar for its tech nical working up cost about 1 rouble and 97 kopecks, and it is in view of this that the Ministry of Finance assumes in its estimate the cost at 2 roubles per pood."

My learned friend objects to that going in evidence, and I desire it to go in because it was one of the points on which the Department specifically asked for information.

Mr. BIGLOW: There are two reasons why I object to that statement: First, it is not correct; and, second, the U. S. Consul says himself it is not correct.

Now, my learned friend has stated that the question is not essential, and he objects, because it mutilates the report to take it out. If it is understood that no point is to be made on the question of price according to these figures, that is another matter; but if the Government is going to maintain and claim a basis of price according to those figures, I most certainly object to its going in. No American Consul has the power to say what the Minister of Finance is thinking of. A few lines further on the Consul states:

"I desire to add to my first statement and to report that I am now convinced that this estimate is too high."

He states it is one rouble and seventy-five *co*pecks per
(19) pood. Very different from the other report. He says the cost of production is one rouble and fifty copecks for one pood of sugar. He is coming down. Such a statement I object to either the Russian estimates or the cost of sugar in each amount is too high.

General Appraiser FISCHER: What you say applies

only to the value of the information or reliability of the information, rather than to the document itself.

Mr. BIGELOW: We are stipulating that these are evidences of facts, not what the consul reports, but that they are evidences of facts.

Board rules that the consular report referred to shall be admitted in evidence as a document entire.

Hearing adjourned till 10:30 A. M., April 9, 1901

The following is a copy of the original report from U. S. Consulate at Odessa, Russia, dated September 12 and 24, 1900.

Copy.

No. 630. Consulate of the United States.

Odessa, Russia, Sep. 12, 1900.

(20) Mr. Heenan,

To the Department of State.

Subject:

A. Report on Russian Sugar.

Abstract of Contents.

Respectfully forwarded,

W. R. HOLLOWAY,
Consul-General.

No. 630. Consulate of the United States,

Odessa, Russia, Sept. 12th, 1900.

Honorable David J. Hill,

Assistant Secretary of State,

Washington, D. C.:

Sir,—In accordance with instructions contained in communication from the Department dated July, 24th, 1900, I have the honor to herewith transmit a report on Russian sugar which I hope will be found to cover the the ground traversed by the Honorable Secretary of the Treasury in his letter to the Department under date of July 13th, 1900, a copy of which was enclosed in the communi-

cation from the Department to this Consulate above mentioned.

I am, sir,

Your obedient servant,

(Signed) T. E. HEENAN, Consul.

Inclosure: Report of Russian sugar.

(21) Referring to instructions from the department dated July 24th, 1900, transmitting a copy of a letter from the Secretary of the Treasury under date of July 13, 1900, in which the honorable secretary requests that certain information be obtained by consular officers in Russia in relation to beet root sugar; the information asked for is designated under four different headings, and I have endeavored to answer the same in the order in which they appear in the letter from the Secretary of the Treasury. I have also, as instructed by the Department, reported on other points that may be of interest in connection with this question.

The Secretary of the Treasury desired information in regard to the following particulars:

1.

"The prices of Russian sugar for export during the period of time between September 1, 1899, and June 30, 1900."

The prices were as follows:

September,	1890.					Rs. 1.25	per pood.
October,	1899,	from	Rs.	1.23	to	" 1.26	per pood.
November,	"	"	"	1.27	to	" 1.28½	per pood.
December,	"	"	"	1.27½	to	" 1.31	per pood.
January,	1900,	"	"	1.20	to	" 1.25	per pood.
February,	"	"	"	1.27½	to	" 1.31	per pood.
March,	1900,	"	"	1.31	to	" 1.36½	per pood.
April,	"	"	"	1.35	to	" 1.41	per pood.
May,	"	"	"	1.38½	to	" 1.46	per pood.
June,	"	"	"	1.50			per pood.

(22) These prices are for the white sand sugar at the station of the South Western Railway.

2.

"2. The price of sugar for home consumption, exclusive of excise tax, during the said period of time."

These prices were as follows:

September,	1899	from	Rs. 2.55	to	Rs. 1.60	per pood.
October,	"	"	" 2.45	to	" 2.50	per pood.
November,	"	"	" 2.45	to	" 2.52½	per pood
December,	"	"	" 2.45	to	" 2.47½	per pood.
January,	1900	"	" 2.42	to	" 2.50	per pood.
February,	"	"	" 2.45	to	" 2.65	per pood.
March,	"	"	" 2.60	to	" 2.72½	per pood.
April,	"	"	" 2.70	to	" 2.75	per pood
May,	"	"	" 2.68½	to	" 2 81	per pood.
June,	"	"	" 2.73	to	" 2.82½	per pood.

These prices are for white sand sugar at the stations of the South Western railway.

"2. The cost of production of each of the several kinds of sugar produced for the foreign and home markets."

The diverse conditions of soil and climate in the reigons in which beet root is cultivated in Russia engenders considerable difference in the beet root crop as regards quantity and quality. This is the main cause of the great difference in the cost of production of sugar in the factories, since in the price of the other materials and products required for the production of sugar the difference is not great. The technical conditions scarcely play an import-
(23) ant part, as nearly all the factories have the latest improved machinery. It is necessary also to remember, that independently of territorial differences in the beet root crop, nowhere is there such extremes observed as in Russia in this crop between one year and another, in consequence of unfavorable conditions for growth, thus making the cost at the factory much greater. This is why it may be noticed that in a given factory in a given year the pood of sugar costs solely for its technical working one rouble and fifty-five copecks and in the next year with the same amount of output as much as two roubles per pood. On an average therefore, if it is permitted to draw such an average, the pood of "sand" sugar for its technical working up costs about one rouble and ninety-seven copecks, and it is in view of this that the Ministry of Finance assumes in its estimate the cost at two roubles per pood.

"4 The significance and prices current of "export certificates" which, according to common report, constitute the subject of traffic between the sugar factories in Russia."

Each factory is granted the right to place on the home market, with payment at fixed dates of an excise of Rs.

1.75 copecks per pood, the first 60,000 poods of sugar produced by it plus that percentage in excess of the said 60,000 poods, which must be taken out of its production to complete the issue into the home market up to the amount of the quantity fixed for the given period.

Example:

The number of sugar factories is 276 x 60,000 poods gives 16,560,000 poods. The output has been computed (24) (together with balances carried over from the last period) at 52,000,000 pood. The quantity for the home market has been fixed at 36,000,000 poods so that for this amount (besides the 16,560,000 poods) are required 19,440,000 poods. Therefore, excluding from the 52,000,000 poods these 16,560,000 poods, the remainder of 35,440,000 poods must be distributed in percentage proportion *i. e.* it must be shown what percentage may still be placed on the home market and what may not thus placed. After dividing the 19,440,000 poods by 35,440,000 poods we will find, that on the home market with payment of excise of Rs. 1.75 copecks per pood may be placed 54.85% of that total quantity of sugar for each factory, which the same will have in excess of the first 60,000 poods. The remaining 45.15% of that same quantity constitutes the surplus or the so-called "free reserve" which may be placed on the home market only on payment for each pood of Rs. 1.75 copecks so-called *called* additional excise, independently of the payment of the excise at Rs. 1.75 copecks on the general basis.

The owner of the factory cannot, however, place on the home market all the 45.15% mentioned in the example for the reason Minister Finance regulates and controls a portion of this quantity, retaining it at the factory in the so-called "immovable reserve," the quantity thus held being fixed at the same time as the quantities for home consumption and export. *Vide*: If the immovable reserve has been fixed, say at 3,544,000 poods then out of the above mentioned 35,440,000 poods are retained ten per cent. This means that in the example given we arrive at the conclu- (25) sion that the 35,440,000 will be distributed thus:

54.85% or 19,440,000 poods in the free sugar.

10% or 3,544,000 poods in the immovable reserve.

35.15% or 12,456,000 poods for the export abroad when it is freed from 35,440,000 excise, or for placing on the home market, but with payment in this latter case of the additional excise.

On shipment abroad of sugar which cannot be placed

on the home market without the payment of the additional excise, the latter, *i. e.*, the excise, is guaranteed by approved securities, and for this sugar a certificate is given to the effect that the same has been manufactured at such a factory in such a year, and figures in the category of "free reserve," and is being sent abroad through such custom-house. When, thereafter, this sugar arrives at the custom-house and has been shipped abroad, the customs authorities make an endorsement on the certificate and also issues to the shipper quittances which are accepted in lieu of payment of the excise computed as being due on that sugar. The manufacturer presents this certificate to the local excise administration which sets the securities free which were deposited when the sugar was being removed from the factory. To avoid the necessity of giving securities as guarantee for the additional excise, and in general for the greater freedom in business transactions, the manufacturer is granted the right to export abroad "free sugar," *i. e.*, that on which no additional excise is payable. For such sugar, on its being taken from the factory, a certificate is given on which is written "free sugar." When, thereafter, this sugar is exported abroad and an endorse-
(26) ment is made on the customs certificate, then, on presentation of this certificate to the local excise inspection, the latter transfers to the "free sugar" an equal quantity from the "free reserve." It is of course understood, that on the exportation abroad of free sugar the customs authorites also issue quittances which are valid in lieu of payment of excise on sugar.

It is permitted to export "free sugar" *aboard*, not only for the purpose of liberating for admission to the home market the "free reserve" of any one factory, but also of any other factory. For this purpose the owners of the factories, who enter among themselves into such an agreement, must notify their local excise officials and these in turn must notify each other. That factory which desires to export abroad its free sugar, say 5,000 poods for the account of another factory indicated by it, asks for the transfer in its factory and excise books of 5,000 poods from the category of "free sugar" to the category of "free reserve," in order that from the category of the "free reserve" of the other manufacturer 5,000 poods may also be transferred to the category of "free sugar."

The other manufacturer hands in a notice for the liberation of 5,000 poods of the free reserve from the additional excise and its transfer to the category of "free sugar," in view of the fact that in its place 5,000 poods of free sugar have been transferred to the free reserve of the

first manufacturer. Consequently the first manufacturer ceded to the second his right of placing on the home market 5,000 poods, which he now can only sell abroad or pass out into the home market after payment over and above the ex-
(27) cise, of the additional excise of Rs. 1.75 copecks per pood. As the first and second methods of disposing of this sugar are less advantag/ous than placing the article on the home market as "free sugar" the manufacturer who ceded his right receives from the manufacturer who acquired the right, the price per pood agreed upon between them which is usually determined by the difference existing at the moment between the price obtainable for the sugar on the home market and the price obtainable by sale abroad.

This is what is termed a transfer. Dependent upon the fluctuations in price of sand sugar in Russia and abroad, the price for these transfers also varies, therefore, the person who sells the transfer (the right of issue into the home market) charges several copecks more than the difference mentioned above. This is done on account of the risk that is taken that sugar prices abroad may fall, and also for the trouble involved in exporting, etc.

Example.

Price of sand sugar at a station in the South Weestern region:

(a) for the home market Rs. 4.25 per pood or without exercise Rs.,	2.50
(b) for abroad,	1.25
Consequently the difference or value of transfer is,	1.25

but in that case for the reasons given Rs. 1.28 to Rs. 1.30 is paid for the transfer. The Russian Government, in order to regulate the sugar trade and to give the industry a solid basis, prescribes that a certain quantity of the surplus of all sugar mills or factories must be exported, whether this sugar is exported direct from each factory or if one factory exports its whole production, is immaterial to the Government. For example four sugar factories far away from a
(28) shipping port have to export 50,000 poods each or in all 200,000 poods. Another factory situated near a shipping port to which the freight is cheaper, and with the demand for sugar not great, finds it more profitable to export its entire output (250,000 poods) and receive export certificates for this quantity, these certificates are given to the owners of the four factories mentioned, and these in turn deliver 200,000 poods of sugar which can be sold on the home market whenever the owner pleases. It should

have been stated that certificates to the extent of 200,000 poods are exchanged for the same quantity of sugar and not 250,000 poods. These certificates can be sold to a bank or to a speculator who has engaged to deliver sugar at the port abroad to which the sugar was shipped. The Government also takes these certificates in payment of excise at par, *i. e.*, Rs. 1.75 a pood. The excise is levied on all kinds and qualities of sugar at the rate of Rs 1.75 copecks per pood. The payment of this excise is made at three different periods:

$\frac{1}{3}$ of all sugar placed in the accounts is paid for by the 1 June.

$\frac{1}{3}$ of all sugar placed in the accounts is paid for by the 1 Sept.

$\frac{1}{3}$ of all sugar placed in the accounts is paid for by the 1 Dec.

When sugar is taken out of a factory the manufacturer must pay on account of all the excise due on it 75 copecks per pood in cash or in approved securities, and the factory property is guarantee for the one rouble remaining of the excise. For the greater security of fiscal interests a law was passed on the 4th July, 1900, by virtue of which, commencing from 1st September, 1901, greater security is (29) demanded when sugar is taken from a factory, viz.:

From Sep. 1,	1901,	to the	1 Sep.,	1902,	will be levied .95 cop.
do	1902,	do	1903,	do	1.15 cop.
do	1903,	do	1904,	do	1.35 cop.
do	1904,	do	1905,	do	1.55

do 1905, the total sum of all excise in full 1.75 cop. per pood so that from September 1st, 1905, all factory property will cease to be considered as property available for the guarantee of exercise As regards the actual payment of the excise, the time remains as above, viz.: June 1, September 1 and December 1. For payment the excise in future will be calculated at the same rate as at present on the free sugar and free reserve, but on the immovable reserve the excise only will be charged, when the Minister of Finance will give the permission to place it on the home market.

The immovable reserve is formed for the purpose of placing on the home market in full or in part, with the permission of the minister, in those cases where the price of sand sugar at the stations of the South Western re*i*gon, shall remain for two weeks at the level of the fixed limit or exceed that limit. If by virtue of the condition of the market during the given period, no permission is given to place the immovable reserve on the home market (if the

prices of sand sugar do not exceed the fixed limit), then all of it is added to the output of the following period. For payment of the excise at the stipulated periods, the Government accepts money in cash, and also those quittances on account of sugar exported abroad which are given by custom houses when said sugar is shipped abroad; also a (30) quittance on account of sugar exported from any one factory in valid on account of the excise of any other factory. This quittance is made out in the name of the shipper of the cargo, and it is only necessary that the endorsement of the shipper regarding the transfer to the factory indicated by him in the endorsement, should be attested. In these quittances is stated the quantity of the sugar shipped abroad and the sum of excise charged on it, calculating the same at the fixed rate of Rs. 1.75 copecks per pood netto. It may be of interest to give the exports of sugar from the 1–13 of January, 1900, to the 1–14 of August, 1900. They were as follows:

Via custom house at	Odessa.....	3,658,432 poods.
	Miawa.....	3,266,381 poods.
	Libau.....	1,353,381 poods.
	Petersburg.....	2,719 poods.
	Alexandrovo..	230,081 poods.
	Volschisk.....	380,223 poods.
	Grævo.....	86,620 poods.
	Novoselitza....	86,790 poods.
	Nicolaiev.....	204,944 poods.
	Neschava.....	210,924 poods.
	Astrachan.....	44,445 poods.
	Baku.....	2,045,966 poods.
	Kelif.....	4,728 poods.
	Kokand.....	3,624 poods.
	Duschak.....	27,981 poods.
	Aschabad.....	234,444 poods.
(31)	Julfia.....	57,797 poods.
	Yarkent.....	2,168 poods.
	Bashten.....	484 poods.
	Irkutsk.....	118 poods.
	Ongudeisk.....	7,549 poods.
	Cxubek.....	41 poods.
	Jebrayl.....	31 poods.
	Total.....	10,908,863 poods,

of which 1,921,989 poods were refined sugar, and 8,703,604 poods were white sand sugar.

The following circular from the Minister of Finance to the Managers of Excise was published July 21, 3 August, 1900, and was numbered 589; regarding the permission to

place on the home market without the payment of additional excise a part of the movable reserve. From the particulars in the possession of the Ministry of Finance it appears that during the time from the 1–14 to the 15–28 July, 1900, in the Kieve region, when white sand sugar was sold for delivery during the current period; the selling prices on an average were in excess of Rs. 4.60, *i. e.* in excess of the limit price named by the decree of the Committee of Ministers confirmed by His Majesty on the 18–30 June, 1899. In consequence of this by virtue of paragraph 7 of the law of the 20th November, 2nd December, 1895, and the said Imperial order of the 18–30 June, 1899, I find it necessary to permit the placing on the home market of 500,000 poods of sugar to be taken from the immovable reserve and to add this quantity to the free sugar. Since the placing of this 500,000 poods of sugar on the home market (32) will increase the free sugar for the current period from 35,500,000 poods to 36,000,000 poods, the additional account effected on the factories in accordance with circular number 556 of May 19–1, June, 1900, must be so altered that there must be passed out over and above the first 60,000 poods on each factory 53.5% and into the sugar of the immovable reserve 8.1% from the amount of output of the factory, taken when the calculations were made in accordance with the said circular. Therefore, out of the quantity of immovable reserve on hand at each factory, a part of it equal to 1.25% of the amount of the output estimated at the drawing up of the additional calculation must be passed over to the free sugar.

Consulate of the United States,

Odessa, Russia, September 12, 1900.

(Signed) T. E. HEENAN,
Consul.

Copy.

No. 632.

Consulate of the United States,

Odessa, Russia, September 24th, 1900.

Mr. Heenan:

To the Department of State.

(33) Subject:

Additional information regarding Russian sugar.

Abstract of contents.

Respectfully forwarded.

(Signed) W. R. HOLLOWAY,
Consul-General.

No. 632.

Consulate of the United States.

Odessa, Russia, September 24, 1900.

Honorable David J. Hill,
Assistant Secretary of State.
Washington, D. C.:

Sir,—Referring to my dispatch No. 630, dated September 12, 1900, relating to Russian sugar, I have the honor to herewith transmit a report which contains additional information of an important character on the same subject.

I am, sir,
Your obedient servant,

(Signed) T. E. HEENAN, Consul.

Inclosure: Report of Russian sugar.

(34) 1.

Russian Sugar.

In addition to the statement contained in my report on Russian sugar under date of September 12th, 1900, I beg to submit the following: It is understood that the Russian Government fix the price of sugar to be sold on the home markets for two periods of time, namely, from the 1-14 of September, 1900, to the 1–14 of January, 1901, and from the 1–14 of January, 1901, to the 1–14 of September, 1901. Whenever the limit price fixed by the Government is reached or exceeded for two weeks, at any of the stations of the Southwestern railway, the Government order sugar to be taken from the immovable reserve and placed on the home market with the object of lowering the price of this article within the Government limit. This action on the part of the Russian Government naturally has the effect of controlling, to a certain extent, the price of sugar on the home market, but to a certain extent only. Sugar has time and again been sold on the home market above the price fixed by the Government and the latter are quite powerless to stop it. The Government allow two weeks during which the price fixed may be reached or exceeded, and at the end of this period a sufficient quantity of the sugar from the immovable reserve is thrown on the market for the purpose of reducing the price. But if the sugar manufacturies had two entire weeks during which time they were free to sell sugar at a higher price than the Government limit, the principal of Government control falls to te ground. In my previous

communication or report it was stated that the Russian Government estimated the cost of producing one pood of sugar at two roubles, and I accepted that estimate as being (35) correct. I desire to add to my first statement and to report that I am now convinced that this estimate is too high. The cost per pood on a fair and liberal estimate does not, in my opinion, exceed on an average one rouble and seventy-five copecks per pood. In conversation with a sugar manufacturer recently I was informed that the cost of producing one pood of sugar was one rouble and fifty copecks. The price is fixed by the Government for sugar (home consumption) at the various stations situated in the Southwestern district, and the limit applies to the sales made by the manufacturer to his various customers. The consumers, however, purchase for another and a higher price, and this price at present reaches six roubles a pood. (Five roubles and 20 copecks a pood. This correction is made in accordance with request in personal letter of Mr. Herman to Mr. Chilton, Sept. 27, 1901.)

I have not touched on the question of refined sugar as I assumed it had no bearing on the question involved, viz.: whether the Russian system of excise amounted in reality to a bounty on sugar exported. The sugar mills produce the same sugar from the beet root, and this sand sugar is sent to the refineries in order that the various elements which go to make the "loaf sugar" may be extracted.

The refineries charge from 75 copecks to 90 copecks per pood for the refining, and have a profit of about 50 copecks per pood. In regard to white or yellow sand sugar, there is no difference in the amount of the excise levied, both pay the one rouble and seventy-five copecks per pood. (36) The Treasury Department may be interested in knowing that the quantity of sugar for the home market has been fixed by the Russian Government for the period 1900-1901, at 36 million poods, and this in face of the fact that the actual consumption of sugar in Russia during 1899–1900, amounted to 36,500,000 poods. Thus the yearly consumption of sugar in Russia has been fixed at half a million poods below the actual consumption for 1899–1900. This circumstance, even assuming that the consumption of sugar will not increase during the present period, will no doubt have a marked effect on the sugar market. The price fixed for the *autum* and winter months of the current year, as well as next year to the 1–14 September, is five copecks per pood lower than for the past year. Thus by the conditions of the Goverment limit, the pood of sand sugar may be sold from 1–14 September of the present year to 1–14 January, 1901, without the excise, at Rs. 2.65 copecks,

and from 1–14 January, 1901, to 1–14 September, 1901, at Rs. 2.80 copecks per pood. The actual advance sales of sugar for delivery during the autumn months of the current year do not reach the goverment limit. The transaction on the Kiev exchange show that large quantities of sugar have been sold at prices ranging from Rs. 4.20 copecks to Rs. 4.22½ copecks per pood, which, without the excise, represents Rs. 2.45 to Rs. 2.47½ copecks per pood at the railway station. This price shows, even if the estimate of cost of production be taken at Rs. 1.50 to Rs 2.00, that the manufacturers have a fair margin of profit even with a large export, since, with the price of Russian sugar in London at 13 (37) shillings for 3 poods (about Rs. 2 per pood) and with no loss on the sugar exported to the east and to Fidland, it may be asserted with confidence that the Russian sugar industry is in a flourishing condition. In former years and up to the present time the Government fixed the limit price for sugar to take effect at certain designated points in this Southwestern region. From 1–14 September of the current year and for the future the Government announce that Rostoff has been added as a place to which the limit applies, and for all of the remainder of Russia the price limits which regulate the issue of sugar from the immovable reserve will be determined by the prices which prevail in the Kiev region and the freights to the various points.

Consulate of the United States, Odessa, Russia, September 24, 1900.

(Signed) T. E. HEENAN,
Consul.

EXHIBIT E.

(38) (22984—G. A. 4912.)

Russian sugar bounties—Countervailing duty.

1. ADMINISTRATIVE QUESTION—AUTHORITY OF SECRETARY OF TREASURY.—The question whether a country pays or bestows a bounty or grant upon the exportation of an article, within the meaning of section 5, tariff act of 1897, lies, in its initiative, with the Secretary of the Treasury.

2. JUDICIAL QUESTION—JURISDICTION OF THE BOARD.—Where such a question involves the construction of the laws of the exporting country, it necessarily becomes a judicial one; and the Board of Classification has jurisdiction to determine whether any bounty or grant is actually paid or bestowed.—Hills Brothers Company *v.* United States (suit 2827), decided by C. C. A., 2d cir., Feb. 8, 1901 (not yet reported), followed.

3. SECRETARY'S DETERMINATION OF AMOUNT OF BOUNTY CONCLUSIVE.—*It seems* that the decision of the Secretary of the Treasury as to the amount of any such bounty or grant is conclusive and not reviewable by this Board or the courts.—United States *v.* Klingenberg (153 U. S., 93; 14 Sup. Ct. Rep., 790); Hadden *v.* Merritt (115 U. S., 25), applied.

4. BOUNTY.—A "bounty" may be defined as any advantage or benefit conferred upon or compensation paid to a person or class of persons,

the burden of which is borne, directly or indirectly, by the public treasury.

5. GRANT.—A "grant" implies the conferring by the sovereign power of some valuable privilege, franchise, or other right of like character, upon a corporation, person or class of persons. It involves the idea of a favor conferred by Government, but does not necessarily embrace the act of appropriating money out of the public treasury.

6. EXEMPTION FROM TAXATION.—The privilege of exemption from taxation, as well as the remission or cancellation of a tax already assessed may properly be considered a "grant."—Chicago, B. & K. C. R. R. *v.* Guffey (120 U. S., 569); Given *v.* Wright (117 U. S., 656).

7. PURPOSE OF A STATUTE DETERMINED BY ITS EFFECT.—In whatever language a statute may be framed, its purpose must be determined by its natural and reasonable effect —Henderson *v.* The Mayor (92 U. S., 259, 268).

8. BOUNTY OR GRANT ON EXPORTATION OF SUGAR.—The Russian Government pays or bestows a bounty or grant upon the exportation of so-called "free sugar," so as to work a benefit or advantage to the exporter in two ways: (*a*) By remitting or refunding the excise tax due upon the sugar, and (*b*) by issuing to the exporter a certificate of exportation, carrying with it a privilege of exemption from taxation, which certificate is transferable, and has a substantial market value.

[TICHENOR, General Appraiser, dissenting, holds as follows:]

1. That the remission, on exportation of sugar, of the excise tax, does not constitute a "bounty or grant upon the exportation."

2. That a bounty or grant need not be money, but may consist of a valuable right, conditioned, however, *upon exportation*, in order to be within the purview of section 5, act of July 24, 1897.

3. That Russia does, apparently, confer a valuable right or privilege in her domestic market upon her manufacturers of sugar, but this right is not conditional upon *exportation*.

4. The question being in doubt, the doubt should be resolved in favor of the importer.

Before the U. S. General Appraisers at New York, April 19, 1901.

In the matter of the protest, 41483*b*-868, of Robert E. Downs, against the decision of the collector of customs at Baltimore, Md., as to the rate and amount of duties chargeable on certain Russian sugar, imported per *Assyria* and entered July 6, 1899.

Opinion by SOMERVILLE, *General Appraiser*

The importation in this case consists of refined sugar, which was exported from Russia, and arrived at the port of Baltimore as shown above. No controversy arises as to (39) the proper classification of the sugar as made by the collector, his action in this particular not being challenged. The only question for decision relates to the imposition of a so called countervailing duty, levied under the provisions of section 5 of the tariff act of July 24, 1897, which reads as follows:

SEC. 5. That whenever any country, dependency, or colony shall pay *or bestow*, directly *or indirectly*, any bounty *or grant* upon the exportation

of any article or merchandise from such country, or dependency, or colony, and such article or merchandise is dutiable under the provisions of this Act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, *in addition* to the duties otherwise imposed by this Act, an *additional duty* equal to the *net amount of such bounty or grant, however the same be paid or bestowed. The net amount* of all such bounties or grants shall be from time to time *ascertained, determined, and declared by the Secretary of the Treasury*, who shall make all needful regulations for the identification of such articles and merchandise and for the assessment and collection of such additional duties.

Under the authority conferred by this law, the Secretary of the Treasury has duly "ascertained, determined, and declared the net amount" of the bounty or grant which, in his judgment, was bestowed by the laws of the Russian Government upon the exportation of this sugar. (T. D. 20407, dated December 12, 1898; T. D. 22814, dated February 14, 1901.) It is not denied by either party to this suit that, if in fact any bounty or grant was bestowed, the Secretary's finding as to its amount was correct. Moreover, it would seem that the decision of that officer as to this particular fact, being made in pursuance of a special statutory authority, would be quite as conclusive on this Board and the courts as the finding of the Director of the Mint, under the provisions of section 25 of the tariff act of 1894, a statute strictly analogous, which finding has been held to be conclusive, and not reviewable by this Board or the courts. United States *v.* Klingenberg (153 U. S., 93; 14 Sup. Ct. Rep., 790); Wood *v.* United States (72 Fed. Rep., 254; 18 C. C. A., 553), explaining Klingenberg's case; Hadden *v.* Merritt (115 U. S., 25).

It is conceded, however, that the decision of the Secretary as to whether the laws of Russia do, in fact, bestow such a bounty or grant, is reviewable by this Board, as it involves the construction of the laws of Russia relating to the precise subject-matter covered by said section 5, above cited. The jurisdiction of the Board in this particular has been sustained by the United States Circuit Court of Appeals for the Second Circuit in the recent case of United States *v.* Hills Brothers Company (suit 2827), decided February 8, 1901 (not yet reported). Alluding to this phase of the subject, Hon. Lyman J. Gage, Secretary of the Treasury, has made the following observation:

(40) Do the Russian Government regulations have such a bearing upon the facts of the case as to bring Russian sugar within the intent of said law as disclosed by its terms? While the question in its initiative lies with the administration of the Treasury Department, the question is of a judicial rather than of an administrative character, and its importance de-

mands determination by a judicial tribunal. The Board of General Appraisers constitutes such a tribunal, and from its decisions appeal may be taken to the United States Courts. (Cong. Record, 56th Cong., 2d sess., p. 3335. Speech of Hon. J. R. Mann, of Illinois.)

The word "bounty," in its ordinary signification, may be defined to be "an additional benefit conferred upon, or a compensation paid to, a class of persons."—Bouvier's Law Dictionary (ed. of 1897), Vol. 1, page 260.

The subject of sugar bounties has been a matter of consideration for the past thirty years or more, and has been discussed by various international conferences of the European powers, specially convened for the purpose of considering some suitable method for their suppression or modification, so far as relates to the continent of Europe and Great Britain and her colonies. A conference of this character was held at Brussels in June, 1898, the proceedings of which, under the denomination of "sugar bounties," have been published by authority of Congress as Senate Document No. 171, Fifty-sixth Congress, second session, under the direction of the Senate Committee on Finance. After an elaborate discussion and exchange of views between the delegates to this conference, the consensus of opinion among them seemed to be (p. 61) that—

> Bounties whose abolition is desirable are understood to be all the advantages conceded to manufacturers and refiners by the fiscal legislation of the States that, directly or indirectly, are borne by the public treasury.

It was furthermore stated that—

> There should be classified as such, notably: (*a*) The direct advantages granted in case of expotation; (*b*) the direct advantage granted to production; (*c*) the total or partial exemptions from taxation granted to a portion of the manufactured products; (*d*) the indirect advantages growing out of surplus or allowance in manufacturing effected beyond the legal estimates; (*e*) the profit that may be derived from excessive drawback.

It is important to observe, in the consideration of this subject, that section 5 of the tariff act of 1897, under which this case arises, does not use the word "bounty" in any narrow or technical meaning. It embraces "any bounty or *grant*" bestowed or conferred by the Government, whether directly or indirectly. The word "grant" is more comprehensive in meaning than the term "bounty." It implies the conferring by the sovereign power of some valuable privilege, franchise, or other right of like character, upon a corporation, person, or class of persons. Under the ancient laws of England this was deemed in many cases to be prerogative of the King, who possessed large powers for the regulation of trade and commerce. It is stated, for example, by Macaulay, as follows:

> In addition to his (King James I's) undoubted right to grant special commercial privileges to particular places, he long claimed a right to

grant special commercial privileges to particular societies and to particular individuals.

(41) And again:

He readily granted oppressive patents of monopoly. (Macaulay's History of England, Vol. 4, pp. 222-3.)

A well-known instance of a similar grant was in the great "Case of Monopolies" (Coke's Reports, part 11, p. 86), where a patent had been granted to the plaintiff, giving him the sole right to import playing cards and the entire traffic in them, and the sole right to make such cards within the realm. The court held that the grant to have the sole benefit of making them was "against the common law and the benefit and liberty of the subject." (See comment on this case in Slaughterhouse cases, 16 Wall., 36, 103). In more modern times, the grant of special privileges by the Louisiana legislature to a particular class of persons, giving them a monopoly of establishing slaughterhouses in the city of New Orleans, is another illustration. The Supreme Court, per Miller, *J.*, speaking of the act of the legislature, remarked:

It is true that it *grants*, for a period of twenty-five years, exclusive privileges.

And again:

We think it may be safely affirmed that the Parliament of Great Britian * * * continued to *grant* to persons and corporations exclusive privileges—privileges denied to other citizens, etc.

See also, Am. and Eng. Cyc. of Law, Vol. 15, p. 711, "Monopoly."

These cases are cited for the purpose of illustrating the broad and comprehensive meaning of "grant," which differs in many respects from "bounty." While it involves the idea of a favor or benefit conferred by the government, sometimes of an exclusive character, it does not necessarily embrace the act of appropriating or paying money out of the public treasury.

Indeed, the word "grant," in its broad signification, may well include the remission of a tax already levied and assessed by the authority of government. It has been held that, in the absence of special statutory remedies, and sometimes in addition to such remedies, actions of debt may be maintained for the collection of taxes. Savings Bank *v.* United States (19 Wall., 227, 240), citing numerous English cases; also United States *v.* Lyman (1 Mason, 482; 26 Fed. Cas., 1024), in which the question is exhaustively treated by Judge Story.

There would seem to be no difference between the re-

mission of a tax and the resulting cancellation of the debt due the Government, and a case where the tax may have been actually collected and paid into the treasury and then refunded and repaid by authority of law. A law enacted by the sovereign power, remitting the taxes due by a citizen for a single year or a specified number of years, in consideration of his rendering a service or engaging in an enterprise deemed of advantage to the public, would unquestionably be construed to be a "bounty or grant," as fully as if the like amount of money had been actually collected and refunded under the technical name of a bounty. It (42) has long been the practice in many of the American States for the legislature to confer charters on banks, railroads, and especially on manufacturing corporations, containing a special grant of exemption from taxation under the general laws of the State. (Chicago, B. & K. C. R. R. *v.* Guffey, 120 U. S., 569; Given *v.* Wright, 117 U. S., 656.)

In this connection the remarks of Chief Justice Fuller in Passavant *v.* United States (149 U. S., 16; 18 Sup. Ct. Rep., 219, at 22), are of importance:

> Doubtless, to encourage exportation and the introduction of German goods into other markets, the German Government could remit or refund the tax, pay a bonus, or allow a drawback.
>
> And it is found that, in respect of these goods, when "purchased in bond or consigned while in bond, for exportation to a foreign country, this duty is remitted by the German Government, and is called *bonification of tax*, as distinguished from being refunded as a rebate." The use of the word "bonification" does not change the character of this remission. It is a special advantage extended by Government in aid of manufacturers and trade *having the same effect as a bonus* or drawback. To use one of the definitions of drawback, it is "a device resorted to for enabling a commodity affected by taxes to be exported and sold in the foreign market on the same terms as if it had not been taxed at all."

And again (p. 223)—

> Exoneration from its payment (*i. e.*, payment of the tax) was a mere special advantage, extended by the German Government, as we have said, in promotion of manufacturers and commerce.

The question, then, which is before us for consideration is reduced to this:

Did the laws of Russia and the regulations made by the Minister of Finance for the purpose of carrying such laws into execution operate to confer a "bounty or *grant*," directly or indirectly, upon the exportation of this sugar from the Russian dominions? And in making this inquiry it is immaterial in what manner the "bounty or grant" was paid or bestowed. The law regards substances, not shadows; things, not names.

The Russian law covering the production and exportation of sugar is an exceedingly complex scheme, both as it stands upon the statute book and as it is administered in

actual practice. The system was pronounced by one of the delegates to the Brussels conference to be "an extremely ingenious device," and it was further said that—

The Russian Empire is indebted to it for the notable increase in the output of sugar which has taken place since it came into operation; all this with the appearance that no premium, in the narrow meaning of the word, has been applied.

The leading features of the Russian law and regulations, as set forth in the stipulated agreement of facts and shown by the record, may be summarized as follows:

Under the Russian law of November 20, 1895, sugar is divided into the three following classes (p. 2 of Stip., Sec. IV):

(*a*) "Free sugar," which consists of a certain quantity of sugar, which the Russian Government permits a factory or refinery to sell for home consumption under an excise tax of 1.75 rubles per pood.

(43) (*b*) "An obligatory or indivertible reserve" of sugar, which consists of a certain quantity kept at each factory or refinery by order of the Government, and which may not be sold or removed without the special permission of the Government.

(*c*) "Free reserve or free surplus," which consists of such sugar as is manufactured over and above the quantity of "free sugar" and "obligatory or indivertible reserve." This sugar may not be sold for home consumption except upon payment of the regular tax of 1.75 rubles and an additional tax of 1.75 rubles, or 3.50 rubles in all.

And the Russian Government fixes and determines the following conditions:

(*a*) The total quantity of sugar required for home consumption.

(*b*) The quantity of "free sugar" allowed to each factory, the "obligatory reserve" which each factory or refinery shall keep on hand.

(*c*) The maximum price at which sugar may be sold for domestic consumption.

It is admitted that the sugar imported in this case consists of "free sugar," as above defined, and would have been subject to a tax of 1.75 rubles per pood, if sold in Russia (about 2½ cents per pound, allowing 36 pounds to the pood).

With the view of protecting home producers of sugar against foreign competition, the Russian Government imposes an import duty on sugar of 3 rubles per pood, which is equivalent to about 4.28 cents per pound. Other important provisions of the Russian law are as follows:

10. The delivery of sugar from factories and beet sugar refineries is allowed only upon permits of the excise supervisor who certifies by his signature upon the transit document to the regularity of the delivery.

5. Sugar in excess of the normal production can not be put on the home market otherwise than upon payment of an additional tax, the normal tax being payable according to the general regulation; however, it is allowed to the manufacturers to keep this excess of sugar as free reserve,

and in such case, so long as the sugar does not leave the factory, they are not required to pay either the additional or the regular excise.

An important provision enabling the Russian Government to control prices is found in section 7 of the law, which reads as follows:

7. In cases where the prices in the home market exceed the normal prices fixed the minister of finance authorizes the issuance of sugar from the obligatory reserve and from the free reserve (if necessary) in sufficient quantities to cause a decrease of prices without payment of the additional tax, but with payment of the normal excise.

Section 9 runs as follows:

9. Upon the exportation from factories of the excess of sugar, the same is exempted from excise and additional tax in full measure.

The Minister of Finance, acting in conjunction with a committee of ministers, is authorized either to reduce or to suspend totally, for a given period of time, the provision of the Russian law which exempts exported sugar from not only the normal tax but also the additional tax as well. Such action would operate to subject imported sugar to the full tax of 3.50 rubles per pood (equal to about 5 cents per pound).

The particular bounty or grant which seems to be con-
(44) ferred by the Russian law upon the exportation of sugar accrues under section 39 of said law, providing that—

A manufacturer may cede to another manufactureer his right to place on the home market free—*i. e.*, without the payment of an additional tax—his allotted quota of sugar.

This cession can be made only in accordance with certain rules prescribed in Section 40 of said law, by which notice of such transfer is required to be given to the local excise board, authorizing the reduction of the quantity of free sugar in one mill and the increase thereof by assignment at another mill.

This cession or transfer is accomplished by means of Government certificates or vouchers, which operate as follows, *e. g.*, refiner A is authorized to get the benefit of the failure of refiner B to supply the home market with his full quota of free sugar. Home refiner A becomes willing to pay refiner B a certain required sum if he will export a portion of his allotted quota of sugar, and he accordingly gives A the official evidence of such exportation in the form of a voucher certificate, as above described; and this, under the operation of the Russian law and regulations, authorizes A to sell in the home market, at a tax of 1.75 rubles per pood, an equivalent portion of the sugar produced by him, A, in excess of his quota. One of the purposes of these transfers is expressly stated to be "in order to facilitate the exportation of the surplus to foreign countries." (Secs. 39 and 40.)

The character and value of these certicates are further explained in the following extracts from the stipulated agreement of facts in this case:

VI. That, upon the exportation of said sugar from Russia, the Russian Government, under its laws and regulations, released said sugar from said tax of 1.75 rubles, either by a refund of the tax, or a cancellation of indebtedness, or otherwise.

VII. That, in addition to remitting said excise tax, the Government issued to the exporter a certificate certifying that he had exported such a quantity of so-called free sugar. That said certificate and such certificates for free sugar have a substantial market value and are transferable, and that the price thereof is usually determined by the difference existing at the time between the price obtainable for the sugar on the home market and the price obtainable abroad.

VIII. That said certificates are sold to and used by sugar manufacturers or refiners, who are thereby enabled to transfer from their "free reserve or free surplus," to their "free sugar" an amount of sugar equal to the amount shown by said certificates to have been exported, which amount may then be sold for domestic consumption on paying the ordinary tax of 1.75 rubles per pood (to which free sugar is regularly subject.)

The following statement on this subject is made in the report of the American consul to the Treasury Department, and which was admitted in evidence at the hearing:

On shipment abroad of sugar which can not be placed on the home market without the payment of additional excise, the latter—*i. e.*, the excise—is guaranteed by approved securities, and for this sugar a certicate is given to the effect that the same has been manufactured at such a factory in such a year and figures in the category of "free reserve," and is being sent abroad through such custom-house. When thereafter this sugar arrives at the custom-house and has been shipped abroad, the customs authorities make an indorsement on the certificate and also issue to the shipper quittances, which are accepted in lieu of payment of the excise computed as being due on that sugar.

The manufacturer presents this certificate to the local excise administration, which sets the securities free which were deposited when the sugar was being removed from the factory. To avoid the necessity of giving securities as guarantee for additional excise, and in general for the greater freedom in business transactions, the manufacturer is granted the right to export abroad "free sugar"—*i. e.*, that on which no additional excise is payable. For such sugar, on its being taken from the factory, a certificate is given, on which is written "Free sugar."

When thereafter this sugar is exported abroad and an indorsement is made on the customs certificate, then on presentation of this certificate to the local excise inspection the latter transfers to the "free sugar" an equal quantity from the "free reserve." It is, of course, understood that on the exportation abroad of free sugar the customs authorities also issue quittances, which are valid in lieu of payment of excise on sugar.

It is permitted to export free sugar abroad, not only for the purpose of liberating for admission to the home market the "free reserve" of any one factory, but also of any other factory. For this purpose the owners of the factories who enter among themselves into such an agreement must notify their local excise officials, and these in turn must notify each other. That factory which desires to export abroad its free sugar, say 5,000 poods, for the account of another factory indicated by it, asks for the transfer in its factory and excise books of 5,000 poods from the category of "free sugar" to the category of "free reserve" in order that from the category of the "free reserve" of the other manufacturer 5,000 poods may also be transferred to the category of "free sugar."

The other manufacturer hands in a notice for the liberation of 5,000 poods of the free reserve from the additional excise and its transfer to the

category of free sugar, in view of the fact that in its place 5,000 poods of the free sugar have been transferred to the free reserve of the first manufacturer. Consequently the first manufacturer ceded to the second his right of placing on the home market 5,000 poods, which he can now only sell abroad or pass out into the home market after payment of the additional excise of 1.75 rubles per pood. As the first and second methods of disposing of this sugar are less advantageous than placing the article on the home market as free sugar, the manufacturer who ceded his right receives from the manufacturer who acquired the right the price per pood agreed upon between them, which is usually determined by the difference existing at the moment between the price obtainable for the sugar on the home market and the price obtainable by sale abroad.

This is what is termed a transfer. Dependent upon the fluctuations in price of sand sugar in Russia and abroad, the price of these transfers also varies; therefore, the person who sells the transfer (the right of issue into the home market) charges several kopecks more than the difference mentioned above. This is done on account of the risk that is taken that sugar prices abroad may fall, and also for the trouble involved in exporting, etc.

EXAMPLE.—Price of sand sugar at a station in the southwestern region, (*a*) for the home market, Rs. 4.25 per pood, or without excise, Rs. 2.50; (*b*) for abroad, Rs. 1.25. Consequently the difference or value of transfer is Rs. 1.25, but in that case, for the reasons given, Rs. 1.28 to Rs. 1.30 is paid for the transfer.

* * * * * * * *

For example, four sugar factories far away from the shipping port have to export 50,000 poods each, or in all 200,000 poods. Another factory situated near a shipping port, to which the freight is cheaper, and with the demand for sugar not great, finds it more profitable to export its entire output (250,000 poods), and receives export certificates for this quantity. (36) These certificates are given to the owners of the four factories mentioned, and these in turn deliver 200,000 poods of sugar, which can be sold on the home market whenever the owner pleases.

It should have been stated that certificates to the extent of 200,000 poods are exchanged for the same quantity of sugar, and not 250,000 poods. These certificates can be sold to a bank, or to a speculator who has engaged to deliver sugar at the port abroad to which the sugar was shipped. The Government also takes these certificates in payment of excise at par—*i. e.*, 1 ruble 75 kopecks a pood.

The natural results of the Russian laws governing the sugar industry is the accumulation of a large surplus of sugar, and the disposal of such surplus has proved a problem of no small difficulty. Much of it has necessarily gone abroad for export, even at a loss to the manufacturers.

It is manifest from the foregoing considerations that the exporter of sugar from the Russian Empire, under the provisions of the Russian laws already mentioned, as enforced by the regulations of the Minister of Finance, receives a valuable bonus through the operation of such laws and regulations, and that this bonus accrues to him upon the exportation of his sugar. The export certificates or vouchers, to which we have referred, are only the legal evidence of this valuable privilege or grant conferred by the Government, without whose authority such transfers of sugar would be valueless and of no effect.

Our conclusion, therefore, is that a bounty or grant, within the meaning of section 5 of our tariff act, has been paid or bestowed by the Russian Government upon the exportation of this sugar, so as to work a benefit or advantage to the Russian sugar exporter, as follows:

First. Upon the exportation of the sugar, the Government remitted or refunded the excise tax due thereon, or otherwise canceled the indebtedness of the sugar manufacturer, so that he was enabled to place his product upon the market free from the burden of either the regular or additional excise tax.

Second. The certificate which the Government issued to him upon the exportation of his sugar had a substantial market value, and was transferable, and operated as a premium, grant, bonus, or reward.

Looked at from the Russian standpoint, these advantages might, perhaps, be described as a bounty on production, but (in the language of the Circuit Court of Appeals in the Hills Brothers case, *supra*) "from the standpoint of *other countries*," they became a bounty or grant on exportation. It will be observed, too, that in the Hills case it was the fact alone of the remission of the excise tax by the Dutch Government which brought into operation the bounty received by the sugar makers. In other words, it created it, for without such remission there would have been no bounty. It is immaterial, we may add, whether the price obtained for the exported sugar reaped a profit or inflicted a loss upon the manufacturer or producer. The simple inquiry is whether, at whatever price he may have sold it, he received a bounty or grant of pecuniary value, upon its exportation by reason of and through the opera-
(47) tion of the system of laws of the Russian Empire designed for the regulation of the sugar industry, both for home consumption and exportation.

There is nothing in the decision of the Circuit Court of Appeals in the case of United States *v.* Hills Brothers Company, *supra*, which, in our judgment, conflicts in any manner with the conclusions we have reached in this case. On the contrary, the reasoning of the court is strongly confirmatory of the views we have expressed. That decision, it may be noted, reversed the decision of the Circuit Court holding that the bounty paid by Holland was a bounty on production (99 Fed. Rep., 425), and affirmed the decision of this Board which held it to be a bounty on exportation. (*In re* Hills Brothers Company, G. A. 4261.)

In examining the mass of evidence introduced in this

case, and in construing the Russian laws and regulations, we have borne carefully in mind the principle laid down by Mr. Justice Miller in Henderson *v.* The Mayor (92 U. S., 259, 268), that—

> In whatever language a statute may be framed, its purpose must be determined by its natural and reasonable effect.

Testing the Russian sugar laws by this standard, and giving to the importer the benefit of every reasonable doubt as to the construction of the law, we are impelled to the conclusion that the Russian sugar statutes and regulations operate to pay or bestow a bounty or grant, directly or indirectly, upon the exportation of sugar.

The protest is overruled and the decision of the collector is affirmed.

(S'd) H. M. SOMERVILLE,
I. F. FISCHER,
Board of Classification of U. S. Gen. Appraisers.

[Dissenting opinion by TICHENOR, General Appraiser.]

(48) I am unable to concur in the conclusions of my colleagues in this case. To my mind, the laws and regulations of the Russian Empire respecting sugar are so complicated as to make their precise meaning somewhat obscure. This may be due in some measure to inaccurate translation and the peculiarites of the Russian language. I am not disposed to attribute it, however, to an intention on the part of the governing authorities of that country to conceal their true purpose in the premises.

In my opinion, the words "shall pay or bestow, directly or indirectly, any bounty or grant upon the exportation of any article," etc., in section 5 of our present tariff act, means the payment of money to a person, class of persons, or corporation, directly from the public treasury, or the cession of a valuable right or privilege belonging to the community, State or Government, and in either case it should be in consideration of or conditioned upon the exportation of the article.

Now, according to my understanding, the Government of Russia does not pay any money, directly or indirectly, from its treasury to exporters of sugar. It does remit, or omit to collect, on exported sugar, a tax which would be levied on the sugar if sold for consumption in Russia. (49) This simply allows the manufacturer or refiner of sugar to exercise his natural right of entering a part of his product into free competition in the world's markets, entirely unburdened and untrammeled with tax or other like

disadvantage. This does not, in my opinion, constitute the payment or bestowal of a bounty or grant on or in consideration of the exportation of sugar, but the exported sugar occupies precisely the same relation to the foreign market that it would if Russia did not impose any excise tax whatever. In the recent case of United States *v.* Hills Brothers, the Circuit Court of Appeals did not hold that the mere remission of the excise tax by the Government of Holland constituted a bounty, but that the excess of the so-called "rebate," over the amount of tax, did constitute a bounty. It is clear that if only the tax had been refunded there would have been no bounty.

The Russian system, so far as it relates to the remission of excise taxes on exportation, the supervision of the manufacture, etc., assimilates in most essential particulars to that of our Government in regard to the production and exportation of distilled spirits. The manufacturer of distilled spirits in the United States is under the constant control and supervision of officers of the Government from the time the raw material enters the distillery until the completed product is exported, or has gone into home consumption after the payment of the internal revenue tax imposed thereon by our laws. Such tax is correspondingly much greater than that imposed by Russia on home-made sugar. Indeed, it approximates three times the market value of the untaxed spirits. We, like the Russian Government in the case of sugar, allow our distillers of spirits to export the same and to enter into free competition in the world's markets on a natural footing, unburdened and untrammeled with any internal revenue tax or other burden, and also furnish them export certificates in the nature of a quittance, equivalent to a remission of the excise tax and carrying certain rights in case of reimportation. At the same time, distilled spirits, when withdrawn from the distillery or warehouse for the home market, must pay the onerous revenue or excise imposed by our laws. However, I do not understand that our exported distilled spirits are regarded as a bounty fed, in official or commercial circles abroad.

The payment or allowance by this Government of a *drawback* equal to the duty paid on materials entering into the manufacture of an article on its exportation from this country, unquestionably operates as an inducement to engage in the manufacture of such article for the purpose of exportation. Yet such manufacturer and our Government would most stoutly resist a claim by a foreign State that such an an article was bounty fed, or had received the benefits of payment of a bounty or bestowal of a grant,

still the article would, to my mind, fall more nearly within the provision like that in section 5 than the importation of (50) sugar here in question. The allowance of the drawback is not in the nature of a payment of bounty or bestowal of a grant; likewise, the Russian Government's action with respect to the exportation of this sugar amounted in fact to the *omission of any tax* or imposition of any burden and not to the payment or bestowal of a bounty or grant.

The mere fact that exported Russian sugar commands a much lower price than the same kind of sugar in the home markets of Russia furnishes no evidence whatever that the Russian Government pays or bestows a bounty or grant on the exportation thereof. All manufacturing countries export their surplus or overproduct at lower prices than the articles command in the home market.

The existing laws and regulations of the Russian Government relative to sugar appear to me to have been framed with a view especially: (1) To giving such encouragement to domestic production as would insure an ample supply of sugar at all times to meet the demand for home consumption; (2) to relieve consumers from payment of exorbitant prices therefor, through combinations of manufacturers; (3) to protect the manufacturers also from ruinous competition; and (4) to secure revenue for the Government.

The price is prevented from falling too low by practically prohibiting the sale of more than a limited quantity, which is fixed and apportioned among the different factories. This is accomplished by doubling the tax on all surplus sold, and the double tax of 3.50 rubles per pood is practically prohibitive. The quantity permitted to be sold is small enough, compared to the demand, to cause prices to be maintained at an abnormally high level, while the protective import duty excludes foreign competition. Means are also provided for preventing the price from going too high, but that is a matter that need not be examined into in this case.

The difference between the price of sugar as it is in the markets of Russia and what it would be if regulated only by the natural law of supply and demand is undoubtedly a benefit to the sugar producer or refiner, and results from the agency of the Government. It can be directly traced to the Government's action, which enables the manufacturers of sugar to obtain from the people of Russia money which they would not otherwise be able to secure. The effect is the same as if the Government increased its excise tax on sugar and paid over the surplus to the man-

ufacturers. It is the effect and substance that should be considered, not the mere form or name.

The benefit to the manufacturer is partially offset by the excise tax, but that only makes a difference in the amount of the artificial profit, not in its character.

It should not be lost sight of, however, that while the profit per pood is increased by the exercise of Governmental control, the number of poods that may be sold is limited. Whether a lower price for a greater quantity would (51) result in a greater or less total profit to the manufacturer is problematical.

But even if it be conceded that it is a bounty, the important question, then, is whether it is a bounty *upon exportation*, such being the only kind of a bounty or grant that is within Section 5 of the Tariff Act. In order to come within that section it should appear that when sugar is exported some advantage is gained by the exporter, either directly from the Government or through its instrumentality, which would not be gained if the exportation were not made. On the record in this case, this can only be true if the right to sell one lot of sugar in the home market is conditioned upon the exportation of another lot.

The so-called "free surplus sugar" may be exported, as also the "free sugar," but the first can not be sold in the home market, while the second can. And if a manufacturer exports 100 poods of his "free sugar" (which he could have sold at home), he obtains the right to sell at home 100 poods of his "free surplus" (which he could not otherwise have sold at home). The total which he is permitted to sell at home is neither increased nor diminished, and so his profit resulting from the abnormal market value is neither increased nor diminished by exportation.

It is argued by the Government in this case that the manufacturer is required to export a certain proportion of his output, simply because he cannot do anything else with it. The Russian laws and regulations do not seem to require, however, that any manufacturer shall produce any more than his quota for home consumption. The first 60,000 poods produced by each factory at the beginning of the campaign is *all free sugar*, and may all be sold in the Russian market, without any condition that any other sugar shall be exported. This amounts, for the whole Empire, to perhaps 16,000,000 poods, or in the neighborhood of one-third of the total consumption for the year, and cannot be regarded as insignificant. The right to sell in the home market at the high price can scarcely be considered dependent upon exportation, when this right is extended to

every factory that produces not more than 60,000 poods and exports nothing.

But it is argued that the larger factories *do* produce an excess over the 60,000 poods; that this excess must be distributed between the "free sugar" (for sale at home), the "indivertible reserve" (for sale at home only if permitted by the ministers), and the "free surplus," which, it is said, can *only* be exported. It is expressly provided, however, by Section 19 of the regulations of the Russian Government that this "free surplus" may be carried over to the next "campaign" or season, when (if desired) it will be added to the "production," which forms the basis of the allotment of each class of sugar to the factory for that campaign. Of course, when added to production, it is to be (52) divided along with the new product into "free sugar," "free surplus," and "indivertible reserve," so that a portion of it still remains in the category of "free surplus," but the majority of it goes into the "free sugar" and can be sold at home.

Whatever may be the effect of this argument, it is clear to my mind that the factories are not actually required to produce any surplus for export. The amount of sugar to be sold on the home market is fixed, it is said, at a figure somewhat below the estimated demand for home consumption, so as to maintain the price or insure the manufacturers' profit. The quantity of sugar required to maintain a given price will be the same, whether the factories produce just that quantity or much more—that is to say, the quantity required to supply the home market is not affected by the production. Suppose, therefore, that the Government fixes the consumption at 36,000,000 poods, and the factories produce just 36,000,000 poods; it will all be required for domestic consumption and there will be no "free surplus." But the alleged bounty, consisting merely of the artificially high price of sugar, would be received by the manufacturer without exporting a pood. This being true, the bounty, if there is one, is not conditioned upon exportation. The manufacturers would not produce a surplus merely for the privilege of exporting it at a loss. The fact that their domestic business is done at a profit, even a Government-encouraged profit, would not be an inducement to export at a loss, unless they were *compelled* to export, in order to secure their privileges in the home market. It is, therefore, unquestionably true, so far as shown by the record in this case, that the Russian manufacturers of sugar do this export business simply because they can do it at a profit.

The export certificates or warrants are issued under

the following circumstances: A given factory is permitted by the Government to sell on the home market a specified quantity of sugar. The factory has also produced a quantity of sugar which it is not permitted to sell on the home market (except on payment of double tax, which is practically prohibitive), but which it is permitted to export free of excise tax. If some of this sugar is exported, a certificate is issued, which is simply evidence that the excise tax has been remitted or is not to be paid. This certificate has no other value.

The manufacturer is also permitted to export sugar which he might sell at home. If he does this, he receives a certificate which permits him to sell an equal quantity of his other sugar which he could not otherwise have sold at home. The total amount which he is entitled to sell in the home market remains precisely the same, and if the Government does give him a bounty on each pood sold for domestic consumption, it gives him the same bounty on the same number of poods, whether he exports any sugar or not. It is difficult to see how this amounts to a bounty on (53) exportation, or how, if it is not a bounty in the hands of the original holder, it can become one by being transferred. The certificate itself can not be a bounty. If there is any bounty, it lies in the right represented by the certificate, which is the right to sell so many poods of sugar in the home market. This right is a valuable one and may be sold, but the holder of the certificate had the right and was entitled to sell or transfer it before he exported any sugar, and without any obligation to export.

The fact that these export certificates have a certain market value in Russia does not necessarily increase the exportation of sugar from that country, for the reason that what the seller of the certificate exports, the buyer thereof withholds from exportation. As a matter of fact, the exports of sugar from Russia have decreased since the present system took effect. If Russia does pay a bounty on the exportation of sugar, therefore, it has wholly failed to accomplish the purpose for which it was established.

Upon a review of all the elements of the case, I have arrived at the conclusion that the right to sell sugar in the markets of Russia, subject to the conditions established by the Government, is a valuable privilege conferred by the Government upon the domestic sugar producers, but that it is not conditioned upon the exportation of any sugar, and is not, therefore, a "bounty or grant" *upon exportation*. I admit, however, that the question is by no means free from doubt, and hence I should follow the familiar rule so often announced in decisions of the courts and

Board, and which is so well stated by Mr. Justice Story in Adams *v.* Bancroft (3 Sup., 384), as follows:

> Laws imposing duties are never construed beyond the natural import of the language, and duties are never imposed upon the citizens upon doubtful interpretations, for every duty imposes a burden on the public at large, and is construed strictly, and must be made out in a clear and determinate manner from the language of the statute.

In conclusion, I deem it proper to say that we are liable to be misled, more or less, in the consideration of these questions by the paternal control exercised by the Imperial Government of Russia over the industries and business affairs generally of its subjects, and which differ so radically from the freedom allowed and exercised by the citizen in such matters in this country.

It follows from the foregoing that the protest should, in my opinion, be sustained.

(S'd) GEO. C. TICHENOR,
General Appraiser.

(54) And for a certified statement of the facts involved in said matter, as ascertained by them, the said board states that said facts are fully set forth in the decision aforementioned, and that no other facts were ascertained by said board than such as are shown by said decision and other exhibits hereto attached.

H. M. SOMERVILLE,
GEO. C. TICHENOR,
I. F. FISCHER,
Board of U. S. General Appraisers.

EXTRACT FROM CONGRESSIONAL RECORD DATED FEB. 26, 1901, ONE OF THE EXHIBITS MARKED "EXHIBITS IN SUIT No. 1491.

(55) Filed with the Return of the Board of U. S. General Appraisers.

The Russian Law.

The following is a translation of the Russian law of November 20, 1895, now in force:

1. The committee of ministers, upon a report of the minister of finance, determines for each sugar campaign:

(*a*) The total quantity of sugar required for home consumption from all the factories and refineries.

(*b*) The quantity of sugar to be kept by each factory as an obligatory reserve.

(*c*) The maximum of prcies during the prevalence whereof said reserve must remain intact in the factories as well as the conditions under which the sugar in reserve can be put on the market.

2. The quantity of sugar produced in excess of the amount fixed for home consumption (as per section 1) is considered as an excess of production, and is subject to an additional tax at the rate of 1 ruble and 75 copecks per pood.

3 The excess (as per section 2) is distributed among the factories in proportion to the quantity of sugar produced by each of them over and above 60,000 poods.

4. The obligatory reserve of sugar to be kept by each factory is derived and completed from the quantity of sugar in excess of the normal quantity (section 2) by taking from such excess the necessary percentage to constitute the prescribed reserve.

5. Sugar in excess of the normal production can not be put on the home market otherwise than upon payment of an additional tax, the normal tax being payable according to the general regulation; however, it is allowed to the manufacturers to keep this excess of sugar as free reserve, and in such case, so long as the sugar does not leave the factory, they are not required to pay either the additional or the regular excise.

6. The sugar in the obligatory reserve is not liable to the payment of tax until it is withdrawn by permission under the conditions indicated in section 7.

7. In cases where the prices in the home market exceed the normal prices fixed the minister of finance authorizes the issuance of sugar from the obligatory reserve and from the free reserve (if necessary) in sufficient quantities to cause a decrease of prices without payment of the additional tax, but with payment of the normal excise.

8. In case of loss, without the fault of the manufacturer, of sugar comprised in the obligatory of the free reserve, the minister of finance is authorized to strike the lost sugar from the factory's accounts, without exacting the excise and additional tax charged against it.

9. Upon the exportation from the factories of the excess of sugar, the same is exempted from the excise and additional tax in full measure.

NOTE.—In case of such a rise of the prices of sugar in the foreign European markets, as might become an encouragement of a considerable overproduction by sugar factories in the Empire, the minister of finance is authrized to submit to the committee of ministers a recommendation for the reduction or a total suspension for a given period of time, of the exemption of the exported sugar from the additional tax.

10. The delivery of sugar from factories and beet-sugar refineries is allowed only upon permits of the excise supervisor who certifies by his signature upon the transit document to the regularity of the delivery.

11. Persons guilty of an unauthorized delivery from factories of sugar pertaining to the obligatory reserve, or of the delivery of surplus sugar without payment of additional tax, as well as refiners and traders guilty of knowingly acquiring such irregularly delivered sugar, are liable to the penalties provided by section 1090 of the excise law, edition of 1893.

12. The minister of finance is authorized, with the concurrence of the comptroller of the Empire, to establish the proper accountability of the factories for the additional tax on sugar produced in excess to determine the method of apportioning such excess among the factories, of forming the obligatory reserves, of keeping and releasing the same and also exporting the surplus and to give all necessary directions and explanations concerning the application of the present law.

The following is a translation of the regulations made by the Russian Goverment in furtherance of the law above quoted, and is taken from the Vestnik Finansov, 1896:

Instructions as to the manner of carrying into effect the opinion of the State council, most graciously approved on the 20th November, 1895, relative to certain measures concerning the sugar industry.

[Approved by the minister of finance on December 23, 1895, in accordance with section 3, note 1, and section 4, note—, and section 1, opinion of State council, most graciously approved November 20, 1895.]

A. ON THE ACCOUNTING FOR THE APPORTIONMENT OF THE SUGAR SURPLUSES AMONG THE FACTORIES.

1. GENERAL PROVISIONS.

Section 1. For the purpose of apportioning among the

sand-sugar factories and beet-sugar refineries (including the Zhityn refinery) the sugar surpluses subject to an additional tax, pursuant to the act of November 20, 1895, the minister of finance shall prepare a preliminary and a final account, together with a supplemental account.

Sec. 2. Preliminary accounts are prepared (a) toward the beginning of the sugar campaign, and (b) upon receipt of returns on the production of the mills, furnished in the manner hereinafter indicated, in the month of October.

The final account is made after the termination of the production of juice in the majority of the mills, and the account supplemental thereto, upon the receipt of the returns, in the month of April, in regard to such mills as may not have completed their operations toward the month of January.

Sec. 3. The preliminary account ascertains the maximum expected total production of sugar at the mills. The final account, together with the account supplemental thereto, ascertains the actual total production of sugar.

After thus ascertaining the total production of sugar, the percentage ratio is determined which the surplus shall bear to the excess of the production of the several mills over and above the 60,000 poods allowed to each of them and the portion of the surplus is fixed which is to be set apart as an indivertible reserve at the mills.

(56) Sec. 4. Inasmuch as the percentage of surplus determined by the accounts mentioned will naturally vary, so must accordingly vary the appointment of the surplus production among the several mills.

II. The Excise Boards to Prepare and Submit Reports Whereon the Accounting in Regard to the Sugar Surpluses is to be Made.

Sec. 5. For the purpose of drawing up the first preliminary account the excise boards are directed to present to the department of non-assessable taxes, on or before August 15 next preceding any given sugar campaign, returns upon the following subjects: (*a*) number of mills and refineries which are to be in operation during the coming sugar campaign; (*b*) quantity of sugar on hand in each credited to the indivertible reserve stock; (*c*) quantity of free surplus sugar carried over from the preceding campaign and canceled off the surplus account; (*g*) number of dessiatines of land under beets planted by the mill owners themselves and by planters; (*d*) quantity and quality of the expected beet crop, estimated upon the average beet crops of the

three years previous and the quantity planted in the current year; and (*e*) quantity of the expected output of sugar.

These returns are to be presented in schedule form (Form *littera a*), and apart from it by telegram wherein shall only be stated: "Transferred to production, 00 poods; total output of sugar expected, 00 poods; mills to be in operation, 00."

NOTE.—In making returns under this section, as well as those hereinafter mentioned, an account shall be made which shall be signed by the comptroller and by the management of the mill.

Sec. 6. For the second preliminary accounting the excise boards are directed to present to the department of non-assessable taxes, on or before October 25, the following returns in relation to the mills up to October 20: (*a*) Number of factories producing juice, specifying the number among them with an ascertained productive capacity of not over 60,000 poods: (*b*) actual quantity of sugar transferred from the free surplus of the previous campaign to the production of the current campaign; (*c*) quantity of beet harvested, specifying, for proper further consideration, the quantity of beet delivered to the factories as well as that remaining on the fields, whether merely not carried off or left in the ground, and showing the causes which have delayed the delivery of the beet to the factories; (*g*) average quality of the normal juice of the same, as proven by polarimetric test, indicating also its technical value, and (*d*) upon all these data, the estimated quantity of sugar about to be produced.

Said return shall be presented in the annexed schedule form (Form *littera b*), and apart from it, by telegram, wherein shall merely be stated: "Mills in operation, *00*, of which *00*, with a capacity not exceeding 60,000 poods; transferred to production of sugar, *00* poods; yield of beet, *00* berkovetz; quality of juice 'bricks,' *00*; quality of sugar, *00*; grade, *00*; technical value, *00*; estimated production expected, *00* poods."

Sec. 7. For the purpose of final accounting, the excise boards are directed to present to the department of non-assessable taxes, on or before the 15th January, the following returns for the period ending January 1:

As to sand-sugar factories wherein the production of juice has been completed: (*a*) Quantity of sugar, strictly all white, registed and carried over from the free surplus of the period last past; (*b*) quantity of sugar, white,

half white, and yellow of the II. and III. crystalizations, registered since the beginning of the campaign, the quantity of half-white and yellow sugars to be reduced to white sugar; (*e*) quantity of white sugar as yet unregistered; (*g*) quantities on hand of unregistered white sugar and yellow sugar of the II. and III. crystalizations produced during the current campaign, but not wrought over as yet into white sugar; also quantity of molasses drained from the II. and III. crystalizations; and (*d*) upon all the foregoing data the estimated total output of sugar at the mills for the period under consideration, stating the exact number of factories with an output not exceeding 60,000 poods each, as well as their aggregate production.

In computing the total production of white sugar at a factory no other unfinished products may be considered but those hereafter mentioned, the same to be reckoned as white sugar at the following rates: Half white, equal 92 per cent. white; yellow sugar, II crystallization, equal 75 per cent.; yellow sugar, III crystallization, equal 50 per cent; molasses, from II crystallization, equal 25 per cent., and molasses, III crystallization, equal 10 per cent. These returns shall be presented in schedule form, as per specimen hereto annexed (form, *littera* v). Apart from this, the excise boards shall wire to the Department a statement in form following: "Production of juice completed at — factories; total production of white sugar, estimated at — poods, including the product of — factories with an output not exceeding 60,000 poods each, estimated in all at — poods.

As to beet sugar refineries, wherein there should at the time still remain on hand a large variety of products of refining in process of manufacture, the following course shall be pursued in relation to the returns to be presented on the 15th of January: The management of every mill shall furnish to the local excise office, on or before January 5, detailed schedules specifying (*a*) the quantity of registered sugar transferred from the surplus of the free reserve of the previous campaign into the production of the current campaign; (*b*) quantity of sugar weighed and registered since the beginning of the campaign; (*c*) quantity of white sugar finished, but as yet unregistered, and (*g*) stock on hand of beet-sugar refining products in all stages of manufacture, beginning with refined sugar treated for whitening, as well as in the process of drying, every item of drains to be followed by the quantity of white sugar contained therein.

The local excise officers in charge shall compare the statements in the schedules furnished by the management

with actual facts and deduct from the stated total of white sugar in process of manufacture the quantity, pood for pood, of purchased white sand sugar operated upon (purchased sand sugar in general is not taken into account). Detailed returns, specifying the production of the mills above mentioned, are to be presented by the excise boards to the department of non-assessable taxes in schedule form (form *littera g*) simultaneously with the returns concerning sand-sugar factories wherein the production of juice has been completed. Apart from it each excise board shall wire a statement as follows: "Beet-sugar refineries, —; production, preliminary estimate, — poods."

Said returns are accepted provisionally for the January accounting subject to correction, to be made upon the receipt of the returns on the production of beet-sugar refineries up to April 1, which are to be presented by the excise boards to the department of non-assessable taxes on or before April 15. The production of such refineries up to said date is determined upon the same data and at the same rates as those hereinabove set forth in reference to beet-sugar factories for the term ending January 1, with the following modifications and exemptions, however: The output is computed by the excise authorities (*a*) upon the quantities of refined sugar weighed and registered, of white, half-white, and yellow sugars, respectively, reducing half-white and yellow sugars to white sugar, at the rates set forth in this section, after eliminating from the total, pood for pood, the quantity of purchased white-sand sugar previously registered at other mills; (*b*) upon the quantity of registered white sugar transferred from the surplus of free reserve of the previous campaign into the production of the current campaign; (*c*) upon the remaining stocks of unregistered refined sugar and white sugars, and of unfinished half white sugar and yellow sugar of the II crystallization, putting the white sugar contents of half-white sugar at 92 per cent., and those of yellow sugar of the II crystallization at 75 per cent.

To the quantity, so computed, of white sugar and other sugars reduced to white sugar, an allowance of 8 per cent. on the total is added to account for the white sugar remaining in other products of refining, beginning with molasses drained from the II. crystallization and yellow sugar of the III. crystallization; the total of white sugar thus computed is finally taken as the output of the refinery for the period under consideration. Final returns concerning beet-sugar refineries, to be used in the supplemental accounting, are to be presented to the department of non-assessible taxes, pursuant to the annexed schedule form (Form

littera e), on or before April 15. Apart from this the following shall be stated by telegram: "Output of beet-sugar refineries estimated as *00* poods.

(57) *As to sand sugar mills wherein the production of juice may not have been completed by January 1*, the output of sugar is determined in conformity with the rules established for beet-sugar refineries, to-wit: The managements of the mills must present to the excise office, on or before January 5, a detailed schedule, to be audited by the local excise officers, stating (*a*) quantity of surplus of last campaign, in the shape of registered white sugar, transferred from the free reserve into the production of the current campaign; (*b*) quantity of white, half white, and yellow sugars, weighed and registered, half white and yellow sugars being reduced to white sugar at the percentage rates set forth in this section; (*c*) stock on hand of products in all stages of manufacture, setting forth against each item of drains its white sugar contents, and, lastly, (*g*) quantity of beet unworked, and yield of sugar expected therefrom. Detailed returns specifying the production of the mills herein mentioned are to be presented in the annexed schedule form (Form *littera d*), by the excise boards to the department of non-assessable taxes simultaneously with the returns on such factories as have completed the production of juice.

Apart from this the following shall be stated by telegram: "00 factories have not completed production of juice, their output estimated for the time being at 00 poods." These returns are accepted, provisionally, for the January accounting, pending correction to be made upon receipt, by the department of non-assessable taxes of the returns of the several excise boards on said factories for the period ending April 1.

Said returns are made in the regular order provided for beet-sugar factories wherein the production of juice has been completed, and must be presented to the department on or before April 15.

Apart from this the following shall be stated by telegram: "Production of the backward sand sugar factories, estimated at 00 poods."

Sec. 8. Should the main sugar refining operations at any beet-sugar refineries for any reason remain unfinished toward April 1, final returns for this additional term must nevertheless be made without fail, in which case work at the mills must be temporarily suspended as far as necessary for such purpose.

Sec. 9. All information requisite for determining

thereon the production of the several mills, whenever the same can not be obtained from the fiscal books kept at said mills, must be furnished to the excise officers by the managements thereof; and in case the accuracy of the information so furnished be questioned, it is for the management to substantiate the same by producing to the excise officers the books of account and such commercial, chemical, or other books as are kept at the mill, as well as any agreements, contracts, business documents, and the like, such as there may be.

Sec. 10. All products of sugar manufacture are taken by the excise officers at the actual quantity thereof on hand at the mills at the time. The quantity of the products is determined by the weight or geometrical measurement.

III. Drawing the Accounts of the Sugar Surpluses and Applying said Accounts to the Several Mills.

Sec. 11. Upon the returns above set forth the department of non-assessable taxes ascertains the aggregate production of sugar at all the factories. The production of the Zhityn molasses refinery is estimated upon the yields of refined sugar won from molasses at said refinery within the three campaigns last preceding.

Sec. 12. According to the aggregate production of sugar ascertained as above set forth, the ministry of finance determines what percentage ratio the surplus shall bear to the output in excess of 60,000 poods, and fixes the portion of the surplus to be set apart for the indivertible reserve, of which it thereupon advises the excise boards, and through them the sugar manufactures.

Sec. 13. Upon the two preliminary accounts the distribution of the surplus (to-wit, into the indivertible reserve and the free surplus) proceeds apace with the registration of the sugar. So, at a mill with an output exceeding 60,000 poods, should there be 50 per cent. appropriated for the surplus, of which 10 per cent. for the indivertible reserve, then, after allowing the first 60,000 poods, 10 per cent. of any quantity of sugar which is being registered must be set apart for the indivertible reserve, 40 per cent. into the free reserve, and 50 per cent. (over and above the 60,000 poods) may be shipped by the owner from the mill, free, without the payment of an additional tax.

Sec. 14. In making the final account at the sand-sugar factories the output thereof is directly determined upon

the returns presented in January, and the surplus is apportioned accordingly. For example, if from the products taken into account in preparing the January report the output of a mill has been ascertained to amount to 160,000 poods and the surplus has been fixed at 50 per cent., of which 10 per cent. for the indivertible reserve, then the mill owner may ship free 110,000 poods (60+50=110 thousand poods), 10,000 poods must next be set aside for the indivertible reserve, and all the remaining quantity of sugar is counted as free surplus.

Sec. 15. With regard to those beet-sugar refineries and sand-sugar factories, wherein the production of juice is not completed by January and a final account cannot be drawn, the distribution of the surplus proceeds as fast as the sugar is being registered, up to the supplemental (April) accounting, after said accounting is made said mills are proceeded with as hereinabove in the foregoing section set forth.

NOTE.—In the Zhityn molasses refinery the distribution of the surplus proceeds with the registration of sugar in the course of the entire campaign, provided that at said mill that quantity only of sugar is to be taken into account at which its output may from time to time be estimated; so, if the output of the Zhityn mill, for a given campaign, be estimated at 270,000 poods, and 50 per cent. be ordered to be set apart for the surplus, then there may be shipped from the mill, free, i. e., without payment of the additional tax, no more than 165,000 poods (60,000 105,000+165,000 poods).

Sec. 16. In beet-sugar refineries, as well as in the Zhityn mill, purchased sand sugar and refined sugar won therefrom (allowing pood for pood) are generally considered free for shipment and are not taken into account in calculating the surplus. For example, if at a refinery with an output of 225,000 poods there be 100,000 poods of purchased sand, only 125,000 poods are considered in calculating the surplus.

Sec. 17. Upon every accounting, where a new percentage is fixed, a redistribution of the surplus at the several mills is to be made, computing from the beginning of the campaign. For example, if, upon the first preliminary accounting, there was set apart for the surplus 50 per cent., and upon the second 40 per cent., then, in accordance with the latter calculation, one-fifth part of the surplus previously set apart is transferred to the free-sugar account.

B. ON THE APPORTIONMENT OF THE SURPLUS SUGAR AMONG THE SEVERAL MILLS AND ON CHARGING THE SAME WITH EXCISE AND ADDITIONAL TAX.

Sec. 18. Upon every accounting made by the ministry of finance for the apportionment of the surplus a memorandum is to be made at the mill by the excise officers in charge, in the presence of representatives of the mill management, which memorandum shall be in triplicate, one copy to remain on file with the books and the other copies to be returned, respectively, to the district and the provincial excise board.

In the memorandum made upon the first preliminary accounting shall be entered (*a*) the percentage fixed for the distribution of the surplus; (*b*) the indivertible reserve on hand at the mill, and (*c*) the quantity of the free surplus of sugar carried over from the previous campaign without being cancelled off the surplus account.

In the memorandum made upon the second preliminary accounting (as well as upon the third accounting with regard to such beet-sugar refineries and sand-sugar factories as may not have completed the production of juice by January) shall be entered in addition thereto the result of the redistribution, under the modified percentage rates, of the sugar previously registered, into free sugar and surplus.

In the memorandum made upon the final accounting shall be entered (*a*) the total output of the mill, ascertained in the course of the preparation of the returns; (*b*) the distribution of this quantity, in accordance with the latest percentages fixed, into free sugar (not subject to the additional tax) and surplus; (*c*) the indivertible reserve on hand at the mill; (*g*) the quantity of the free suplus of sugar carried over from the previous campaign, and (*d*) the stock of sugar remaining at the mill at the time the memorandum is made, specifying in what products said stock is kept at the mill. Memoranda upon the supplemental (April) account are made in the same manner.

(58) Sec. 19. If a mill owner should want the free surplus of sugar left at the mill toward the end of the campaign to be canceled off the surplus account and transferred to the sugar production of the coming campaign, he must file with the excise board, on or before August 1, a special declaration to that effect, upon which the excise officers in charge shall, on September 1, duly enter in the books of the closed and the coming campaign the cancellation of such surplus and the transfer thereof to the production of the new campaign.

If no such declaration be filed in due time by the mil owner, all the remaining surplus of the free reserve shal on September 1 be canceled by the excise officers from the surplus account of the past campaign and transferred to the free surplus accumulating through the current campaign.

NOTE.—The surplus carried over from the previous campaign without being transferred to the coming production is not included in the production account in making the accounts for the several mills, as set forth in sections 5 to 7.

SEC. 20. The surplus sugar is charged with the excise and the additional tax as fast as said surplus is registered at the mill. Until the surplus (of the indivertible as well as of the free reserve) is removed from the mill, however, neither the excise nor the additional tax is levied thereon.

NOTE 1.—All products of sugar manufacture, which under the rules in force are free from excise, are in general exempt from the additional tax, and may be removed from the mill free.

NOTE 2.—In accounting with the mills for the excise, pursuant to section 880, excise tax law, the excise due for the registered surplus left over at the mill is deducted from the total sum of excise due from the mill, and of the balance so obtained one-third is made payable on June 1, and two-thirds on September 1.

SEC. 21. There should be kept at the mill an account book, fastened and sealed by the board of control, for the additional tax charged on registered sugar, after the form hereto annexed (Form, littera.) (1) Until said books are received from the board of control there are to be kept at the mills provisional books, after the same form, fastened and sealed by the excise boards.

NOTE.—Mills with an output not exceeding 60,000 poods are not required to keep such a book.

SEC. 22. Apart from the book described in the foregoing section, there shall be kept by the excise officers in charge at every mill a memorandum, fastened and sealed by the excise board and in form prescribed by the latter, wherein shall be entered, after the final accounting, the stock on hand, expenditure and balance (*a*) of free sugar, (*b*) of the indivertible reserve, (*c*) of the free surplus, and (*g*) of the surplus carried over from the previous campaign, specifying the products wherein all said sugar is kept.

Sec. 23. The mill managements are required to file with the local sugar excise board, not later than on the 10th day of every month, a copy of the said account book for the month previous.

The excise boards must keep special books, in form prescribed by the superintendents of excise taxes, to account for the additional sugar tax as well as for surplus sugar.

Sec. 24. Whenever, in case of a rise of the sugar prices beyond the fixed limit, the minister of the finance permits part of the indivertible reserve, or of the surplus held in the free reserve, to be put free on the domestic market, such surplus sugar is, in due quantity, to be canceled off the surplus account and transferred to the free-sugar account; if the said surplus sugar has previously been registered, it is accordingly subject to the payment of the excise tax, alike with the sugar of the current campaign, although it may not have been virtually removed from the mill.

V. On the Accumulation of an Inadvertible Sugar Reserve and the Safe-Keeping Thereof at the Mills.

Sec. 25. The indivertible sugar reserve at the mills is formed by setting apart for the same a fixed portion of the sugar surplus as above set forth. There shall be set apart for the indivertible reserve, generally, white sugar (sand or refined). Should it be impossible to fill the indivertible reserve with white sugar, by reason of the absence thereof, other products shall be set apart for said reserve, the quantity thereof to be reduced to white sugar.

Sec. 26. Sugar of the indivertible reserve must be kept at the mill apart from other sugar, and invariably in such a manner as to make the stock on hand of the reserve easily ascertainable at all times by the excise officers in charge.

Note.—Where the keeping of the reserve sugar at the mill may, through lack of room, cause much inconvenience, the excise office may authorize the safe-keeping of such sugar at the owner's warehouses, located without the mill yard, such sugar to be charged by a lien and a memorandum to be made thereof, provided that such warehouses are not far distant from the mill, or are generally capable of sufficient supervision by the excise officers of the district wherein the mill itself is located, and further provided, that in case it be necessary to establish special supervision or a special guard over such stores or warehouses, all expenses which may be incurred for such purpose be charge-

able to the owner. In transporting reserve sugar from the mills to the warehouses above mentioned security must be given, while in transit, for the excise due thereon, at the rate of 75 kopecks per pood, as well as far the additional tax, at the rate of Rb. 1.75 per pood; if, however, the transportation proceeds under the supervision of the excise office, no security is required.

Sec. 27. Sugar of the indivertible reserve which is carried over from the previous campaign must be replaced, without fail, with white sugar from the first returns of the new campaign. In the course of the campaign the stock of sugar of the indivertible reserve may, by leave of the proper excise authority, be replaced with other sugar (none other, however, than white) in like quantity.

Sec. 28. In case registered white sugar kept as an indivertible reserve or left over from the indivertible reserve, be injured by dampness or other cause, it may, each time by special leave of the superintendent of excise taxes, be dried at the mill, and the registered wrappers may be removed therefrom without again being charged with excise. To obtain leave to dry the sugar, the management of the mill must present a petition to that effect through the local inspector of sugar excise taxes. The superintendent of sugar excise taxes in granting the petition, designates in the permit for drying the sugar, the term within which the drying is authorized and the time within which the sugar after drying must be again packed in its former wrappers, each wrapper to contain the same quantity and bear the same number as previously entered in the book of the mill. Sugar which is permitted to be dried must be removed from storage, as well as returned, weighed, and packed into its former wrappers by the management of the mill in the presence of the proper excise officers, of which a memorandum must be made in triplicate, to be filed with the records of the mill, of the provincial, and the district board, respectively.

Sec. 29. Sugar of the free reserve, if the same has been registered, must be kept in such a manner as to be at all times easily capable of examination by the proper excise officers.

Sec. 30. Sugar of the indivertible reserve in stock at the mill is accepted as security for the 75 kopeck portion of the excise on any sugar removed from the mill, at the following prices until further order: (*a*) White sand at the rate of 1 ruble per pood, and (*b*) refined sugar at the rate of 1.25 rubles per pood. White sand refined sugar of the

free reserve are accepted at the same rates as security for the 75-kopeck portion of the excise, as well as for the additional tax.

NOTE.—Free sugar (exempt from the additional tax) is accepted until further order as security for the 75-kopeck portion of the excise as well as the additional tax, (*a*) white sand at the rate of 1.75 rubles, and (*c*) refined sugar at the rate of 1.25 rubles per pood.

G. ON THE SHIPMENT OF SURPLUS SUGAR FROM THE MILL TO THE DOMESTIC MARKET.

Sec. 31. No sugar of any category (free sugar or indivertible or free reserve) may be removed from the mill unless by leave of the excise office.

Sec. 32. Sugar of the indivertible reserve, as well as sugar of the free reserve, may be shipped from the mills without payment of the additional tax only by special permission of the ministry of finance, in case of a rise in the prices of sugar beyond the fixed limit.

(59) Sec. 33. Except in the case mentioned in the foregoing section, the removal of sugar from the indivertible reserve is not permitted at all, and sugar of the free surplus (free reserve) may be shipped only after the additional tax due thereon has been fully paid into the treasury, for which a receipt of the treasury must be produced by the mill management. (The 75-kopeck portion may be paid or secured in the regular order.)

Sec. 34. The comptroller of the mill, being satisfied that the intended shipment is regular, and, in case the free surplus is to be shipped, that the additional tax has first been paid thereon, permits the shipment of sugar by proper indorsement on the bill of lading, as well as on the stub, describing the category of the sugar shipped as "free", "from the free reserve" or "from the indivertible reserve." In addition to the endorsement the official seal of the comptroller must be affixed to the bill of lading.

Sec. 35. When paying into the treasury the additional tax on the surplus sugar, the mill management must state, in the declaration presented to the treasury, that the money is remitted in payment of "the additional sugar tax."

Sec. 36. The treasury must note, in the receipts issued for the payment of the additional tax, that the money has been remitted in payment of "the additional sugar tax." In the schedules of excise revenue presented by the inter-

nal-revenue officers to the department of nonassessable taxes, must be specified the receipts or the additional tax, under section 6, Article I, (excise on sugar) as a special item *b*.

D. On the Exportation of Sugar Surpluses from the Mills to Foreign Countries and on the Cession of Free Sugar from one Mill to Another in Order to Facilitate such Exportation.

I. On the Manner of Exporting Sugar to Foreign Countries.

Sec. 37. Free sugar, exempt from the additional tax, may be exported to foreign countries in compliance with the rules heretofore existing; the exportation of such sugar requires, however, a permit from the excise office, which must be duly indorsed on the bill of lading, as set forth in sections 31 and 34 of these instructions.

Note.—The mill owner is allowed to export free sugar (this rule does not apply to purchased sand or refined sugar produced from purchased sands) on account of his surplus for the same campaign. For this purpose the export is made in the manner hereinafter, in subdivisions 1 to 4 of section 38, set forth, except that the excise office notes on the certificate "free from sugar," and requires no security for the additional tax. Upon the return of the certificate with the custom-house export mark, the excise office credits the exported quantity of sugar to the free surplus of the mill, if such there be, and increases by a like quantity the allowance of free sugar, of which a memorandum and an entry in the book must be made.

Sec. 38. In relation to exports of the free surplus (free reserve) of sugar from the mills, the following special order must be observed, in addition to the rules now in force.

(1) The transport of sugar from the free reserves intended for export to foreign countries, must be shipped in the presence of the excise authorities, who, after examining the transport, indorse on the bill of lading accompanying the same that said sugar has been removed from the free reserve for exportation abroad, and issue a seperate certificate to the mill owner, setting forth the name of the mill, the bill of lading accompanying the transportation, and the statement of the weight of the sugar contained therein.

(2) The additional tax, at the rate of rubles 1.75 per

pood, chargeable to the exported sugar, must first be secured in full by cash, excise credit vouchers, or such funds as are accepted as security for the tobacco excise, or by the stock of sugar, free or of the free reserve, on hand in the in the factory, as set forth in section 30 of these instructions. (The 75 kopeck portion of the excise due on the exported sugar is to be paid or secured in accordance with the rules now in force.)

(3) The custom-house duly examines the exported shipment of the free surplus, the tare previously certified by the excise office being accepted at its actual weight as per bill of lading annexed to the export certificate. After forwarding the transport across the border, the custom-house delivers to the shipper, in lieu of refunding the excise (not the additional tax, however,), a voucher crediting the same on his sugar excise account and marks down by indorsement on the certificate of the excise office presented by him (subdivision1) the time of export, the net weight of the exported sugar, and the credit voucher issued stating the amount of excise allowed.

(4) The certificate with the indorsement of the custom-house must be returned by the mill owner to the excise office within six months from the date the sugar was shipped from the mill, whereupon the additional tax charged upon the exported sugar is remitted by the excise office, by a corresponding credit in proportion to the quantity of sugar exported, and the deposits securing the same are released. If the certificate is not returned within said time, or does not account for the full quantity of sugar which was to have been exported, then, upon the failure of the mill owner to pay within two weeks the additional tax due, the excise office must proceed with the collection thereof in regular manner.

(5) The mill owner may forward his surplus sugar through the excise office, conformably to the rules of 7th December, 1887, laid down for the export of spirits to foreign countries without security. In such case the sugar is accepted by the railroad in the presence of an excise officer or comptroller. The railroad bill of lading must be addressed to the custom-house through which the sugar is about to be exported, and the duplicate of the railroad bill of lading is delivered to the excise officer by whom it was forwarded, together with the certificate authorizing the removal of the sugar from the mill (subd. 1) to the same custom-house, whereupon the deposits securing the additional tax are released. Upon the arrival of the freight at

the point of destination the custom-house accepts the same in the presence of the shipper and forwards it across the frontier as above directed, at the same time delivering it to the shipper in lieu of refunding the excise, a credit voucher, and thereupon returns the certificates of the excise office, with proper indorsement, to the excise board, which orders the additional tax to be remitted or in case of a shortage of sugar to be collected, as in the manner set forth in the foregoing section.

(6) Yellow sugar of any kind forming part of the free surplus may be exported to foreign countries in accordance with the rules of November 13, 1886, in relation to the manner of exporting yellow sand sugars to foreign countries. The additional tax is secured in the manner above set forth (and the 75-kopeck portion of the excise in the manner set forth in the circular of the ministry of finance under date of September 3, 1894, being No. 2412). The memorandum made by the excise officer in cdarge on removal of said sugar from the mill takes the place of the certificate above mentioned (subdivision 1), upon receipt of which memorandum, with the custom house export mark thereon, the additional tax is remitted and the doposits securing the additional tax are returned.

II. On Transfers of Free Sugar from one Mill to Another in Order to Facilitate the Exportation of the Surpluses to Foreign Countries.

Sec. 39. A manufacturer may cede to another manufacturer his right to place on the home market free—*i. e.*, without the payment of an additional tax—his alloted quota of sugar.

Sec. 40. In relation to such cession the following rules may be observed.

(1) The manufacturer who assigns to another manufacturer his right to dispose of a certain quantity of sugar free must give notice thereof to the local excise board, which first orders to hold at the mill a quantity of free sugar equal to that about to be assigned, and immediately thereupon duly communicates with the excise board having jurisdiction of the mill in whose favor the assignment is being made.

(2) If the assignment is accepted by the latter mill, the quantity of free sugar in said mill is correspondingly increased by transfer from the free surplus (not from the indivertible reserve), of which a memorandum is made by

the excise officers in charge; thereupon the excise board from which the communication in relation to the assignment of free sugar has been received, is notified of the acceptance of said assignment.

(3) Upon receipt of the notification that the assignment has actually been accepted, the quantity of free sugar at the factory by which the assignment has been made is correspondingly reduced by transferring the same into the free surplus (or free reserve), of which a memorandum is made by the excise officers in charge.

(4) The reduction of the quantity of free sugar at one mill and the increase thereof, by assignment, at another mill are entered in the proper books of the mill.

(The books referred to are those which are required by the instructions and subject at all times to inspection by the excise officer. Secs. 21 and 22, form)+(.)

(60) Sections 42 and 41 regulate "the allowances to be made for sugar exported prior to the enactment of measures for the regulation of the sugar industry," viz, prior to 1895–'96, and have no further application to-day.

Reports from an American Consul.

Referring to instructions from the Department dated July 24, 1900, transmitting a copy of a letter from the Secretary of the Treasury under date of July 13, 1900, in which the honorable Secretary requests that certain information be obtained by consular officers in Russia in relation to beet-root susar The information asked for is designated under four different headings, and I have endeavored to answer the same in the order in which they appear in the letter from the Secretary of the Treasury. I have also, as instructed by the Department, reported on other points that may be of interest in connection with this question.

The Secretary of the Treasury desired information in regard to the following particulars:

(1) "The prices of Russian sugar for export during the period of time between September 1, 1899, and June 30, 1900."

These prices were as follows:

Date.	Price per pood.
	Rubles.
September, 1899	1.25
October, 1899	1.23 to 1.26
November, 1899	1.27 to 1.28½
December, 1899	1.27½ to 1.31
January, 1900	1.20 to 1.25
February, 1900	1.27½ to 1.31
March, 1900	1.31 to 1.36½
April, 1900	1.35 to 1.41
May, 1900	1.38½ to 1.46
June, 1900	1.50

These prices are for the white sand sugar at the station of the Southwestern Railway.

(2) "The prices of sugar for home consumption, exclusive of excise tax, during the same period of time."

These prices were as follows:

Date.	Price per pood.
	Rubles.
September, 1899	2.55 to 2.60
October, 1899	2.45 to 2.50
November, 1899	2.45 to 2.52½
December, 1899	2.45 to 2.47½
January, 1900	2.42 to 2.50
February, 1900	2.45 to 2.65
March, 1900	2.60 to 2.72½
April, 1900	2.70 to 2.75
May, 1900	2.68½ to 2.81
June, 1900	2.73 to 2.82½

These prices are for white sand sugar at the stations of the Southwestern Railway.

(3) "The cost of production of each of the several kinds of sugar produced for foreign and home markets."

The diverse conditions of soil and climate in the regions in which beet root is cultivated in Russia engenders considerable difference in the beet-root crop as regards quantity and quality. This is the main cause of the great difference in the cost of production of sugar in the factories, since in the price of the other materials and products required for the production of sugar the difference is not great. The technical conditions scarcely play an important

part, as nearly all of the factories have the latest improved machinery. It is necessary also to remember that independently of territorial difference in the beet-root crop nowhere is there such extremes observed as in Russia in this crop between one year and another, in consequence of unfavorable conditions for growth, thus making the cost at the factory much greater.

This is why it may be noticed that in a given factory in a given year the pood of sugar costs solely for its technical working 1 ruble and 55 copecks, and in the next year, with the same amount of output, as much as 2 rubles per pood. On an average, therefore, if it is permitted to draw such an average, the pood of sand sugar for its technical working up costs about 1 ruble and 97 kopecks, and it is in view of this that the ministry of finance assumes in its estimate the cost at 2 rubles per pood.

(4) "The significance and prices current of 'export certificates,' which, according to common report, constitute the subject of traffic between the sugar factories in Russia."

Each factory is granted the right to place on the home market, with payment at fixed dates of an excise of rubles 1.75 kopecks per pood, the first 60,000 poods of sugar produced by it plus that percentage in excess of the 60,000 poods, which must be taken out of its production to complete the issue into the home market up to the amount of the quantity fixed for the given period.

EXAMPLE.—The number of sugar factories is 276× 60,000 poods gives 16,560,000 poods. The output has been computed, together with balances carried over from the last period, at 52,000,000 poods. The quantity for the home market has been fixed at 36,000,000 poods, so that for this amount, besides the 16,560,000 poods, are required 19,440,000 poods. Therefore, excluding from the 52,000,000 poods these 16,560,000 poods, the remainder of 35,440,000 poods must be distributed in percentage proportion, *i. e.*, it must be shown what percentage may still be placed on the home market and what may not be thus placed. After dividing the 19,440,000 poods by 35,440,000 poods we will find that on the home market, with payment of excise of rubles 1.75 kopecks per pood, may be placed 54.85 per cent. of that total quantity of sugar for each factory, which the same will have in excess of the first 60,000 poods. The remaining 45.15 per cent. of that same quantity consitute the surplus or the so-called "free reserve" which may be placed on the home market only on payment for each pood

of rubles 1.75 copecks so-called additional excise, independently of the payment of the excise at rubles 1.75 copecks on the general basis.

The owner of the factory cannot, however, place on the home market all the 45.15 per cent. mentioned in the example, for the reason that the minister of finance regulates and controls a portion of this quantity, retaining it at the factory in the so-called "immovable reserve," the quantity thus held being fixed at the same time as the quantities for home consumption and export.

Vide: If the immovable reserve has been fixed, say, at 3,544,000 poods, then out of the above-mentioned 35,-(61) 440,000 poods are resained 10 per cent. This means that in the example given we arrive at the conclusion that the 35,440,000 poods will be distributed thus: 54.85 per cent., or 19,440,000 poods, in the free sugar; 10 per cent., or 3,544,000 poods, in the immovable reserve; 35.15 per cent., or 12,456,000 poods, for the export board, when it is freed from excise or for placing on the home market, but with payment in this latter case of the additional excise.

On shipment abroad of sugar which can not be placed on the home market without the payment of the additional excise, the latter—*i. e.*, the excise—is guaranteed by approved securities, and for this sugar a certificate is given to the effect that the same has been manufactured at such a factory in such a year and figures in the category of "free reserve" and is being sent abroad through such custom-house. When thereafter this sugar arrives at the custom-house and has been shipped abroad, the customs authorities make an indorsement on the certificate and also issue to the shipper quittances, which are accepted in lieu of payment of the excise computed as being due on that sugar.

The manufacturer presents this certificate to the local excise administration, which sets the securities free which were deposited when the sugar was being removed from the factory. To avoid the necessity of giving securities as guarantee for additional excise, and in general for the greater freedom in business transactions, the manufacturer is granted the right to export abroad "free sugar"—*i. e.*, that on which no additional excise is payable. For such sugar, on its being taken from the factory, a certificate is given, on which is written "Free sugar."

When thereafter this sugar is exported abroad and an indorsement is made on the customs certificate, then on presentation of this certificate to the local excise inspection the latter transfers to the "free sugar" an equal quantity from the "free reserve." It is of course understood that on the exportation abroad of free sugar the customs au-

thorities also issue quittances, which are valid in lieu of payment of excise on sugar.

It is permitted to export free sugar abroad not only for the purpose of liberating for admission to the home market the "free reserve" of any one factory, but also of any other factory. For this purpose the owners of the factories who enter among themselves into such an agreement must notify their local excise officials, and these in turn must notify each other. That factory which desires to export abroad its free sugar, say 5,000 poods, for the account of another factory indicated by it asks for the transfer in its factory and excise books of 5,000 poods from the category of "free sugar" to the category of "free reserve," in order that from the category of the "free reserve" of the other manufacturer 5,000 poods may also be transferred to the category of "free sugar."

The other manufacturer hands in a notice for the liberation of 5,000 poods of the free reserve from the additional excise and its transfer to the category of free sugar, in view of the fact that in its place 5,000 poods of the free sugar have been transferred to the free reserve of the first manufacturer. Consequently the first manufacturer ceded to the second his right of placing on the home market 5,000 poods, which he can now only sell abroad or pass out into the home market after payment over and above the excise of the additional excise of Rs. 1.75 per pood. As the first and second methods of disposing of this sugar are less advantageous than placing the article on the home market as free sugar, the manufacturer who ceded his right receives from the manufacturer who acquired the right the price per pood agreed upon between them, which is usually determined by the difference existing at the moment between the price obtainable for the sugar on the home market and the price obtainable by the sale abroad.

This is what is termed a transfer. Dependent on the fluctuations in price of sand sugar in Russia and abroad, the price of these transfers also varies; therefore the person who sells the transfer (the right of issue into the home market) charges several kopecks more than the difference mentioned above. This is done on account of the risk that is taken that sugar prices abroad may fall, and also for the trouble involved in exporting, etc.

EXAMPLE.—Price of sand sugar at a station in the Southwestern region, (*a*) for the home market, Rs. 4.25 per pood, or without excise, Rs. 2.50; (*b*) for abroad, Rs. 1.25. Consequently the difference or value of transfer is Rs. 1.25, but in that case, for the reasons given, Rs. 1.28 to Rs. 1.30 is paid for the transfer.

The Russian Government, in order to regulate the sugar trade and to give the industry a solid basis, prescribes that a certain quantity of the surplus of all sugar mills or factories must be exported. Whether this sugar is exported direct from each factory or if one factory exports its whole production is immaterial to the Government. For example, 4 sugar factories far away from the shipping port have to export 50,000 poods each, or in all 200,000 poods. Another factory situated near a shipping port, to which the freight is cheaper, and with the demand for sugar not great, finds it more profitable to export its entire output (250,000 poods), and receives export certificates for this quantity. These certificates are given to the owners of the 4 factories mentioned, and these in turn deliver 200,000 poods of sugar, which can be sold on the home market whenever the owner pleases.

It should have been stated that certificates to the extent of 200,000 poods are exchanged for the same quantity of sugar, and not 250,000 poods. These certificates can be sold to a bank or to a speculator who has engaged to deliver sugar at the port abroad to which the sugar was shipped. The Government also takes these certificates in payment of excise at par, *i. e.*, 1 ruble 75 kopecks a pood.

The excise is levied on all kinds and qualities of sugar at the rate of 1 ruble 75 kopecks per pood. The payment of this excise is made at three different periods: one-third of all sugar placed in the accounts is paid for by June 1; one-third of all sugar placed in the accounts is paid for by September 1; one-third of all sugar placed in the accounts is paid for by December 1.

When sugar is taken out of a factory the manufacturer must pay on account of all the excise due on it 75 kopecks per pood in cash or in approved securities, and the factory property is guarantee for the 1 ruble remaining of the excise. For the greater security of the fiscal interests a law was passed on July 4, 1900, by virtue of which, commencing from September 1, 1901, greater security is demanded when sugar is taken from a factory, viz.: From September 1, 1901, to September 1, 1902, will be levied 95 kopecks per pood; from September 1, 1902, to September 1, 1903, will be levied 1.15 kopecks per pood; from September 1, 1903, to September 1, 1904, will be levied 1.35 kopecks per pood; from September 1, 1904, to September 1, 1905, will be levied 1 55 kopecks per pood; from September 1, 1905, the total sum of all excise in full 1.75 kopecks per pood, so that from September 1, 1905, all factory property will cease to be considered as property available for the guarantee of excise. As regards the actual payment of the excise

the time remains as above, viz.: June 1, September 1 and December 1.

For payment the excise in future will be calculated at the same rate as at present on the free sugar and free reserve, but on the immovable reserve the excise will only be charged when the Minister of Finance will give the permission to place it on the home market.

The immovable reserve is formed for the purpose of placing on the home market in full or in part, with the permission of the minister, in those cases where the price of sand sugar at the stations of the Southwestern region shall remain for two weeks at the level of the fixed limit or exceed that limit. If by virtue of the condition of the market during the given period no permission is given to place the (62) immovable reserve on the home market (if the prices of sand sugar do not exceed the fixed limit), then all of it is added to the output of the following period.

For payment of the excise at the stipulated periods the Government accepts money in cash, and also those quittances on account of sugar exported abroad, which are given by custom houses when said sugar is shipped abroad; also a quittance on account of sugar exported from any one factory is valid on account of the excise of any other factory. This quittance is made out in the name of the shipper of the cargo, and it is only necessary that the indorsement of the shipper regarding the transfer to the factory indicated by him in the indorsement should be attested. In these quittances is stated the quantity of the sugar shipped abroad and the sum of excise charged on it, calculating the same at the fixed rate of 1 ruble 75 kopecks per pood netto.

It may be of interes to give the exports of sugar from the 1st to 13th of January, 1900, to the 1st to 14th of August, 1900. They were as follows:

Via custom-houses at—	Poods
Odessa	3,658,432
Mlawa	3,266,381
Libau	1,353,381
Petersburg	2,719
Alexandrovo	230,081
Volschisk	380,223
Graevo	86,620
Novoselitza	86,790
Nicolaiev	204,944
Neschava	210,924
Astrachan	44,445
Baku	2,045,966
Kelif	4,728
Kokand	3,624
Duschak	27,981
Aschabad	234,444
Julfin	57,797
Yarkent	2,168
Bashten	484
Irkutsk	118
Ongudeisk	7,549
Oxubek	41
Jebrayl	31
Total	10,908,863

Of which 1,921,989 poods were refined sugar and 8,703,604 poods were white sand sugar.

The following circular from the minister of finance to the managers of excise was published July 21-3 August, 1900, and was numbered 589:

"REGARDING THE PERMISSION TO PLACE ON THE HOME MARKET WITHOUT THE PAYMENT OF ADDITIONAL EXCISE A PART OF THE IMMOVABLE RESERVE.

"From the particulars in possession of the ministry of finance it appears that during the time from the 1–14 to the 15–28 July 1900, in the Kiev region, when white sand sugar was sold for delivery during the current period, the selling prices on an average were in excess of 4.60 rubles, *i. e.*, in excess of the limit price named by the decree of

the committee of ministers confirmed by His Majesty on the 18–30 June, 1899.

"In consequence of this, by virtue of paragraph 7 of the law of the 20th November, 2d December, 1895, and the said imperial order of the 18–30 June, 1899, I find it necessary to permit the placing on the home market of 500,000 poods of sugar to be taken from the immovable reserve, and to add this quantity to the free sugar. Since the placing of this 500,000 poods of sugar on the home market will increase the free sugar for the current period from 35,500,000 poods to 36,000,000 poods, the additional account effected on the factories in accordance with circular No. 556 of May 19–1 June, 1900, must be so altered that there must be passed out over and above the first 60,000 poods on each factory 53.5 per cent. and into the sugar of the immovable reserve 8.1 per cent. from the amount of output of the factory, taken when the calculations were made in accordance with the said circular. Therefore, out of the quantity of immovable reserve on hand at each factory, a part of it equal to 1.25 per cent. of the amount of the output estimated at the drawing up of the additional calculation must be passed over to free sugar.

"It is understood that the Russian Government fixes the price of sugar to be sold on the home markets for two periods of time, namely, from the 1–14 of September, 1900, to 1–14 of January, 1901, and from the 1–14 of January, 1901, to the 1–14 of September, 1901. Whenever the limit price fixed by the Government is reached, or exceeded for two weeks, at any of the stations of the Southwestern Railway, the Government orders sugar to be taken from the immavable reserve and placed on the home market with the object of lowering the price of this article within the Government limit. This action on the part of the Russian Government naturally has the effect of controlling to a certain extent, the prices of sugar on the home market, but to a certain extent only.

"Sugar has time and again been sold on the home market above the price fixed by the Government, and the latter are quite powerless to stop it. The Government allow two weeks during which the price fixed may be reached or exceeded, and at the end of this period a sufficient quantity of the sugar from the immovable reserve is thrown on the market for the purpose of reducing the the price. But if the sugar manufacturers had two entire weeks during which time they were free to sell sugar at a higher price than the Government limit, the principle of Government control falls to the ground. In my previous communication or report it was stated that the Russian

Government estimated the cost of producing one pood of sugar at 2 rubles, and I accepted that estimate as being correct.

"I desire to add to my first statement and to report that I am now convinced that this estimate is too high. The cost per pood, on a fair and liberal estimate, does not, in my opinion, exceed on an average 1 ruble and 75 kopecks per pood. In conversation with a sugar manufacturer recently I was informed that the cost of producing 1 pood of sugar was 1 ruble and 50 kopecks. The price is fixed by the Government for sugar (home consumption) at the various stations situated in the southwestern district, and the limit applies to the sales made by the manufacturer to his various customers. The consumers, however, purchased for another and higher price; and this price at present reaches 5 rubles and 20 kopecks a pood. I have not touched on the question of refined sugar, as I assumed it had no bearing on the question involved, viz.: whether the Russian system of excise amounted in reality to a bounty on sugar exported. The sugar mills produce the sand sugar from the beet root; and this sand sugar is sent to the refineries in order that the various elements which go to make the loaf sugar may be extracted. The refineries charge from 75 kopecks to 90 kopecks per pood for the refining and have a profit of about 50 kopecks per pood. In regard to white or yellow sand sugar, there is no difference in the amount of the excise levied; both pay the 1 ruble and 75 kopecks per pood.

"The Treasury Department may be interested in knowing that the quantity of sugar for the home market has been fixed by the Russian Government for the period (63) 1900–1901 at 36,000,000 poods, and this in face of the fact that the actual consumption of sugar in Russia during 1899–1900 amounted to 36,500,000 poods. Thus the yearly consumption of sugar in Russia has been fixed at half a million poods below the actual consumption for 1899-1900. This circumstance, even assuming that the consumption of sugar will not increase during the present period, will no doubt have a marked effect on the sugar market. The price fixed for the autumn and winter months of the current year, as well as next year to the 1-14 September, is 5 kopecks per pood lower than for the past year.

"Thus, by the conditions of the Government limit the pood of sand sugar may be sold from the 1-14 September of the present year to 1-14 January, 1901, without the excise, at 2 rubles 65 kopecks, and from 1-14 January, 1901, to 1-14 September, 1901, at 2 rubles 80 kopecks per

pood. The actual advance sales of sugar for delivery during the autumn months of the current year do not reach the Government limit. The transactions on the Kiev exchange show that large quantities of sugar have been sold at the prices ranging from 4 rubles 20 kopecks to 4 rubles 22½ kopecks per pood, which, without the excise, represents 2 rubles 45 kopecks to 2 rubles 47½ kopecks per pood at the railway station. This price shows, even if the estimate of cost of production be taken at 1 ruble 50 kopecks to 2 rubles, that the manufacturers have a fair margin of profit even with a large export, since with the price of Russian sugar in London at 13 shillings for 3 poods (about 2 rubles per pood) and with no loss on the sugar exported to the east and to Finland, it may be asserted with confidence that the Russian sugar industry is in a flourishing condition.

"In former years and up to the present time the Government fixed the limit price for sugar to take effect at certain designated points in this southwestern region. From the 1st to the 14th of September of the current year and for the future the Government announce that Rostoff has been added as a place to which the limit applies, and for all of the remainder of Russia the price limits which regulate the issue of sugar from the immovable reserve will be determined by the prices which prevail in the Kiev region and freights to the various points."

SENATE DOCUMENT No. 171, 56TH CONGRESS, 2D SESSION:
ONE OF THE EXHIBITS FILED WITH THE RETURN
OF THE BOARD OF U. S. GENERAL APPRAISERS
MARKED "EXHIBITS IN SUIT No. 1491."

56TH CONGRESS, 2d Session. SENATE. DOCUMENT No. 171.

SUGAR BOUNTIES.

PROCEEDINGS

OF THE

CONFERENCE ON THE QUESTION OF SUGAR BOUNTIES

HELD AT

BRUSSELS, JUNE 7 TO 25, 1898.

(BLUE BOOK COMMERCIAL No. 6, 1898.)

Prepared under the direction of the Senate Committee on Finance.

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SUGAR BOUNTIES.

FEBRUARY 18, 1901.—Ordered to be printed.

Mr. ALDRICH, from the Committee on Finance, presented the following

PROCEEDINGS OF THE CONFERENCE ON THE QUESTION OF SUGAR BOUNTIES, HELD AT BRUSSELS, JUNE 7 TO 25, 1898. (BLUE BOOK—COMMERCIAL. NO. 6. 1898.)

[Presented to both Houses of Parliament, by command of Her Majesty, July, 1898.]

CORRESPONDENCE RELATING TO THE CONFERENCE AT BRUSSELS ON THE QUESTION OF SUGAR BOUNTIES.

No. 1.

The Marquess of Salisbury to Sir F. Plunkett, Sir H. Bergne, Lord Ampthill, and Mr. E. C. Ozanne.

FOREIGN OFFICE, *May 31, 1898.*

GENTLEMEN: I have to inform you that Her Majesty's Government have decided to appoint you to be the British delegates at the international conference on the question of sugar bounties which is about to meet at Brussels. I shall furnish you in a subsequent dispatch with instructions for your guidance.

Mr. Nevile Lubbock and Mr. G. Martineau will attend at Brussels in the capacity of experts.

I am, etc.,

SALISBURY.

No. 2.

The Marquess of Salisbury to the British delegates to the Brussels sugar conference.

FOREIGN OFFICE, *May 31, 1898.*

GENTLEMEN: With reference to my dispatch of to-day's date appointing you to be British delegates at the conference to be held at Brussels in connection with sugar bounties, I have now to give you the following general instructions for your guidance:

The conference will meet at Brussels on the 7th June, and you will proceed there in time to be present at the opening meeting.

I inclose a copy of papers recently presented to Parliament on the subject, and I have to call your especial attention to Nos. 48 and 53 of the series, in which the scope and objects of the conference are clearly defined.[1] You will observe that the question of the abolition of all bounties, whether internal or on the exportation of sugar, is to be considered.

It being the earnest desire of Her Majesty's Government to secure the suppression of all bounties on sugar, which they consider to be prejudicial to the general interests of the British Empire, you are authorized to press for and to assist in the negotiation of an international convention for this purpose; but, inasmuch as no bounties are given in the United Kingdom, it will be your duty to consider and to report to me upon any proposals which may be made by the delegates of Belgium or of other bounty-giving States, rather than to put forward, in the first instance, any definite proposals on behalf of Great Britain.

Her Majesty's Government sincerely trust that the result of the deliberations at Brussels may relieve them from the necessity of prosecuting any ulterior measures which might be rendered necessary, especially in regard to the British colonies, if the system of bounties should still be retained; but in this respect it will be desirable that you should maintain an attitude of reserve at the conference, reporting to me from time to time as to any suggestions which may be put forward.

No detailed programme having been received as to the exact manner in which the subject is to be approached at the conference, I am unable at present to furnish you with more precise instructions upon the various points which may come under discussion, and I must leave to your discretion the manner in which you will deal with them, bearing in mind that upon any points of importance it will be desirable that you should ask for instructions before committing Her Majesty's Government to any definite line of action.

I am, etc.,

SALISBURY.

No. 3.

The British delegates to the Brussels sugar conference to the Marquess of Salisbury. (*Received June 29.*)

BRUSSELS, *June 27, 1898.*

MY LORD: In obedience to your lordship's instructions, we attended the international conference relative to the sugar bounties which assembled at Brussels on the 7th instant, in response to the invitations issued by the Belgian Government.

The following countries were represented: Germany, Austria-Hungary, Belgium, Spain, France, Great Britain, The Netherlands, Russia, Sweden.

At the first sitting M. de Smet de Naever, the Belgian premier and minister of finance, and Count Alvensleben, the German minister, as doyen of the diplomatic body, were respectively elected president and vice-president of the conference.

The president, in his opening speech, alluded to the various reasons which rendered the suppression of the sugar bounties desirable, and

[1] Commercial No. 3 (1898): C. 8780.

stated that the Belgian Government were now ready to adopt the principle of refining under government supervision as a step which might facilitate a general understanding.

In the course of the first day's proceedings he defined the object of the conference as follows: "An examination of the question of the suppression of bounties on the exportation of sugar, and of the points connected therewith."

At the second sitting, held on the 10th instant, the conference was furnished with a series of notices, which had been prepared by the different Governments, explaining the system of legislation in regard to sugar in force in their respective countries, and containing estimates of the production and exportation of sugar.

At this sitting the German and Austro-Hungarian delegates declared that their respective Governments were in favor of a complete suppression of the bounties. The Netherland delegate expressed the same view, but indicated that his Government considered that a gradual suppression might perhaps be the best means of obtaining the desired result.

We made a declaration showing the reasons for which Her Majesty's Government desired the abolition of bounties, and stating their readiness to consider favorably any proposals which might tend in this direction.

The Swedish delegate stated that as Sweden was not an exporting country, no question of bounties on the exportation of sugar arose.

At the third sitting the French delegate made a full statement of the attitude of France, to the effect that although his Government were prepared to consider the suppression of the direct bounty on export granted under the French law of 1897, they had entered the conference under the express reservation that their internal law, namely, that of 1884, which granted indirect bounties on export, should remain outside the scope of the discussions.

The Russian delegate had made a similar reservation at the previous sitting, to the effect that Russia had accepted the invitation also on the express understanding that her internal law was not to be discussed.

We, however, called attention to the correspondence which had passed between your lordship and the Belgian minister in London, and especially to your lordship's note to Baron Whettnall of the 10th February last, in which the inquiry was made whether the question of internal bounties was to be discussed, and to Baron Whettnall's reply, stating that this point could not be excluded from the deliberations.[1]

The fourth sitting was devoted to a general, but inconclusive, exchange of observations concerning the bearing of the most-favored-nation clauses upon the question of countervailing duties and other points connected with the suppression of bounties.

During the course of this discussion it became evident that great interest was attached to the views which might be entertained by Great Britain in regard to a penal clause for the imposition of countervailing duties on or the prohibition of bounty-fed sugar. We, however, maintained an attitude of reserve upon this point, stating that the decision of Her Majesty's Government could not be taken until they were in possession of some definite project of agreement, and were in a position to know which powers were willing to become parties to it.

A commission was then constituted to examine certain technical points connected with sugar refining. The report of this commission

[1] See Commercial No. 3 (1898), Nos. 48 and 53.

will be found in the procès verbaux, but does not present any special features of interest at the present moment.

The next meeting of the conference was held on the 18th instant, when the Russian delegate made a statement showing the conditions under which the sugar industry is at present carried on in Russia. The report of the commission on sugar refining was examined, and an exchange of views took place as to the true definition of the term "bounty."

At the sitting held on the 24th instant the Austro-Hungarian delegate made a statement in regard to the real effect of the Russian system which his Government regarded as being equivalent to a bounty on exportation. The Russian delegate, however, stated categorically that his Government had no intention of altering their existing legislation on the subject. The French delegate followed with a further statement showing the necessity for France to retain her existing law of 1884.

The president then brought forward two alternative proposals which had been elaborated by the Belgian and Dutch delegations as the result of several informal conferences with ourselves and various other delegates. It was hoped that these might possibly furnish a basis for an arrangement which might at once be acceptable to France and to the other sugar-producing States.

It had become evident that of all the countries represented at the conference only one, namely, France, was opposed to the complete suppression of all export bounties, whether direct or indirect, and that one power, namely, Russia, declined to discuss the question of her internal legislation, contending that her system does not in fact amount to a bounty on the exportation of sugar. These two powers, therefore, presented an insurmountable obstacle to any agreement unless some satisfactory compromise could be arrived at.

The two alternative solutions proposed by the president were to the following effect:

(*a*) France to abolish her direct export bounty granted by the law of 1897, and, further, to engage that in each year in which her annual export of sugar should exceed 235,000 tons (being the mean of the years 1892–93 to 1896–97), she would reduce her indirect bounty under the law of 1884 by one-fourth until the bounty should be completely abolished.

(*b*) France to abolish her direct export bounty under the law of 1897, and, further, to levy a duty on exported sugar equal to the amount of the bounty given on production. A quantity, not to exceed 50,000 tons per annum, to be, however, exempt from such export duty.

Should France be willing to accept either of these suggestions in principle, it was contemplated to suggest to Russia a compromise on somewhat similar terms.

The French delegate, however, declined to discuss either proposal in the conference, repeating that his instructions precluded him from considering in any way an alteration in the French law of 1884, and expressing his opinion that a better prospect of success might be offered by an endeavor to effect a compromise by means of diplomatic correspondence between the Belgian and French Governments.

The Russian delegate having expressed similar views, it became evident that a prolongation of the conference at the present moment could not lead to any general understanding.

The final meeting was therefore held on the 25th instant, and it was

agreed that the Belgian Government should pursue the subject through the diplomatic channel, and that the conference should be convoked again later on, if a satisfactory result could be obtained as a preliminary step. In accepting this proposal we, however, reserved entire liberty of action to Her Majesty's Government in regard to any measures which the development of the sugar question might render necessary.

We have the honor to inclose copies of the procès verbaux and of the other documents connected with the proceedings, which, according to a resolution agreed to at the final meeting, may be published by the respective Governments whenever they may consider it convenient.[1]

These documents contain only the official report of the proceedings. Much of the actual work has, however, been done by means of more or less informal discussions, undertaken with a view, if possible, to discover some means of arriving at an understanding acceptable to all the powers represented. Throughout these discussions we have made clear the earnest desire of Her Majesty's Government to promote a generally satisfactory result, and their readiness to consider any suggestions either for the total or the partial suppression of the bounties, whether immediately or by means of gradual reductions.

We do not consider it to be any part of our duty to discuss the economic aspects of the sugar-bounty question, either in its bearing upon the United Kingdom or upon the British colonies. This branch of the subject has already received the careful consideration of Her Majesty's Government; but having given above a brief outline of the proceedings of the Brussels sugar conference, we desire to offer the following general observations upon the present position of the question from the international point of view:

Austria-Hungary, Germany, Belgium, and Holland desire to effect a complete abolition of the bounties, and no opposition to an arrangement to this effect is to be apprehended from Spain and Sweden. France, however, while willing to abolish the direct bounty on export under her law of 1897, wishes to retain the advantage of the indirect export bounty created by her internal law of 1884; and Russia declines even to discuss whether her existing system amounts to a bounty on export or not.

Germany grants only a direct export bounty, which is, roughly speaking, about equal in amount to the direct export bounty granted under the French law of 1897, and although sugar can be produced cheaper in Germany than in France, it is not to be expected that Germany will consent to abolish the whole of her bounty while France retains that created by her law of 1884, which is about three times as much as the direct export bounty granted under her law of 1897. Austria-Hungary, on the other hand, contends that the Russian system does in fact amount to the grant of a bounty on exportation, and as Russia is her chief competitor in the sugar markets of Italy and the Levant, the Austro-Hungarian Government are not prepared to abolish their bounties unless some modification can be obtained in the Russian system.

It seems clear that in these circumstances there are at present but two methods of securing the suppression of the bounty system:

1. By coming to some arrangement for such modifications or limitations in the French and Russian systems as may be acceptable to the other sugar-producing States in return for the suppression of their bounties; and

[1] See appendix.

2. By the conclusion of a convention between a certain number of the sugar-producing States, providing for the total suppression of sugar bounties within their dominions, and engaging that they will either impose countervailing duties on, or prohibit the entry of, bounty-fed sugar coming from States which can not be induced to become parties to the convention.

The market of the United States is already rendered unprofitable by this means to all bounty-fed sugar. All the continental sugar-producing States, by means of customs duties and internal legislation, reserve the entire supply of the home market to the home producer of sugar, and the English, and to a rapidly increasing extent, the Indian, market thus becomes essential for the surplus sugar production of the European countries. Any steps by which these markets might be closed to bounty-fed sugar must therefore have a decisive effect in securing the speedy abolition of the bounty system.

That system is, however, now felt to press heavily on the economic resources of those States which have recourse to it, and it is not impossible that a further exchange of views may lead to some concessions by France and Russia which would form the basis of a general arrangement acceptable to all the sugar-producing States, as at least a mitigation of the unsatisfactory system which at present prevails. If no solution can be obtained it is possible that a still worse state of affairs may result by the increase of bounties in various countries.

We can not close our report without expressing our gratitude for the courtesy and hospitality with which we have been received by the Belgian Government and officials, and in particular we wish to record our thanks to the able president of the conference, M. de Smet de Naever, who has always been ready to listen to any suggestions which we have offered, and to promote by every means in his power the attempts which have been made to reach a complete and generally satisfactory understanding.

In conclusion, we wish to convey our best thanks to Messrs. Lubbock and Martineau, who, in the capacity of technical advisers to the British delegates, have rendered us most efficient and ready aid by their great experience and knowledge of the subject, and to Mr. B. F. Alston for his services as secretary.

We have, etc.,

F. R. PLUNKETT.
H. G. BERGNE.
AMPTHILL.
E. C. OZANNE.

No. 4.

The Marquess of Salisbury to the British delegates to the Brussels conference on sugar bounties.

FOREIGN OFFICE, *July 14, 1898.*

GENTLEMEN: I have to acknowledge the receipt of your report, dated the 27th ultimo, respecting the proceedings of the conference on the question of the sugar bounties, recently held at Brussels.

I have much pleasure in expressing my sense of the ability and discretion displayed by you throughout the proceedings, and I desire to convey to you my approval of your action.

I am, etc.,

SALISBURY.

APPENDIX.

PROCÈS VERBAUX OF THE INTERNATIONAL CONFERENCE ON THE SUGAR SYSTEM.

PROCÈS VERBAL OF THE FIRST SITTING.

TUESDAY, *June 7, 1898.*

The delegates of Germany, of Austria-Hungary, of Belgium, of Spain, of France, of Great Britain, of The Netherlands, of Russia, and of Sweden met in conference at Brussels on the 7th of June, at 11 o'clock, at the building of the ministry for foreign affairs, for the purpose of examining the question of suppressing export bounties on sugar, and other points connected therewith.

Were present—

For Germany: His Excellency Count d'Alvensleben, envoy extraordinary and minister plenipotentiary of Germany at Brussels; Mr. Kuhn, superior counselor of Government ("Geheimer Oberregierungsrath"), counselor reporter of the imperial treasury.

For Austria-Hungary: His Excellency Count Khevenhuller Metsch, envoy extraordinary and minister plenipotentiary of Austria-Hungary at Brussels.

Delegate of Austria: Baron Adolph de Jorkasch-Koch, chief of bureau at the ministry of finances.

Delegate of Hungary: Alfred de Toepke, secretary of state at the ministry of finances.

For Belgium: Mr. de Smet de Naeyer, minister of finance, prime minister; Mr. Capelle, minister resident, director-general of the departments of commerce and consulates at the ministry of foreign affairs; Mr. Kebers, inspector-general of the department of direct, customs and excise duties at the ministry of finance; M. de Smet, inspector-general of the department of direct, customs and excise duties at the ministry of finance.

For Spain: His Excellency Mr. de Villa Urrutia, envoy extraordinary and minister plenipotentiary of Spain at Brussels.

For France: Mr. Sebline, senator; Mr. Bousquet, counselor of state and director-general of customs at the ministry of finance; Mr. Delatour, counselor of state, director-general of internal revenue at the ministry of finance; Mr. Dechaud, honorary administrator of internal revenue, assistant delegate.

For Great Britain: His Excellency the Honorable Sir Francis Richard Plunkett, G. C. M. G., envoy extraordinary and minister plenipotentiary of the United Kingdom at Brussels; Sir Henry Bergne, K. C. M. G., director-general of commerce and writer of treaties at the ministry of foreign affairs; the Right Honorable Lord Ampthill, private secretary of the minister of the colonies; Mr. E. C. Ozanne, of the civil

service of India, ex-director of the department of agriculture, etc., at Bombay; Mr. B. F. Alston, secretary at the minister of foreign affairs, secretary of the British delegation.

For the Netherlands: His Excellency the Jonkheer de Pestel, envoy extraordinary and minister plenipotentiary of the Netherlands at Brussels; Baron J. d'Aulnis de Bourouill, doctor of laws, professor at the University of Utrecht; Mr. G. Eschauzier, director of joint stock companies at The Hague; Mr. A. van Rossum, manufacturer at Haarlem.

For Russia: Mr. Arthur Raffalovich, counselor of state in office, representative of the imperial ministry of finances in Paris; Mr. Korobine, engineer, official of the department of internal revenue; Mr. Stcheniovsky.

For Sweden: His Excellency Count Fersen Gyldenstolpe, minister plenipotentiary of Sweden and Norway at Brussels; Mr. Charles Tranchell.

The Baron Lambermont, minister of state, secretary-general of the ministry of foreign affairs, extends, in the name of the minister of foreign affairs, otherwise engaged, a welcome to the foreign delegates. He addresses them as follows:

"GENTLEMEN: The minister for foreign affairs, engaged in other duties, is temporarily absent. He has charged me, while expressing all his regrets that he could not do so, to welcome you, in the name of our Government, in our midst.

"No duty, gentlemen, could be more pleasant to me, and I discharge it with all my heart.

"I have not forgotten that it will soon be twenty-three years since I had, in these very rooms, the honor of presiding over one of the international conferences that have sought the solution of the complex problem that is known by the name of the sugar question.

"The problem still stands, and I form the most sincere wishes that our labors will mature in a combination in which all interests will be conciliated. My confidence in that respect will not seem bold if we are to judge from the enlightened views of the Governments and the selection of their representatives.

"Gentlemen, permit me, in closing, to congratulate myself personally on this opportunity of entering into relations with all the members of the conference."

His Excellency Count d'Alvensleben, minister of Germany, makes the following remarks:

"GENTLEMEN: In my capacity of dean of the plenipotentiary ministers present, I have the honor, in the name of the foreign delegates, to felicitate the Government of His Majesty the King of the Belgians for the initiative it has taken with a view of promoting the solution of a question invested with the highest economical importance, and to thank His Excellency Baron Lambermont for the courteous words of welcome which he was good enough to address to us.

"We have listened to these words with an interest and pleasure enhanced by the fact that they were uttered by that eminent statesman whose qualities are so generally acknowledged and appreciated, and who has himself taken so active a part in the labors concerning the subject-matter now before us.

"In order to do homage to the country which has been pleased to offer us hospitality, I move that, in conformity with the usually

observed practice, we name for president of the conference the first delegate of Belgium, His Excellency Mr. de Smet de Naeyer, minister of finance."

The motion of the honorable delegate of Germany is carried by acclamation of the delegates.

Mr. de Smet de Naeyer offers his thanks, as follows:

"GENTLEMEN: I feel myself highly honored by the motion that his Excellency Count d'Alvensleben was so good as to make and by the kindly fashion in which you have received it.

"Thanks to your high competency and to the cooperation on your part of which I am assured, I venture to hope that I shall see that the deliberations of the conference will culminate in a common understanding for the greater good of all the countries concerned."

Mr. de Smet de Naeyer then invites the delegates to pass into the debating hall.

Presidency of M. de Smet de Naeyer, minister of finance.

After taking his seat in the chair, Mr. de Smet de Naeyer suggests that the conference elect a vice-president.

His Excellency Count Khevenhuller Metsch, minister of Austria-Hungary, nominates the dean of the members of the diplomatic corps present, His Excellency Count d'Alvensleben, minister of Germany.

This nomination meets with the unanimous approval of the conference.

His Excellency Count d'Alvensleben thanks the assembly for the honor which it has bestowed upon him by calling upon him to discharge the duties of vice-president.

The president asks whether it is in accordance with the views of the conference to designate as secretaries the Belgian officials whose names follow:

Secretaries: Mr. Janssens, director in the department of direct, customs and excise duties at the ministry of finance; Mr. J. Brunet, chief of division at the ministry of foreign affairs.

Assistant secretaries: Mr. von der Cruyssen, chief of bureau in the department of direct, customs and excise duties at the ministry of finance; Mr. Perpète, assistant chief of bureau in the department of direct, customs and excise duties at the ministry of finance; Mr. A. Heptia, LL. D., attaché of the ministry of foreign affairs.

The assembly having acceded to these nominations, the gentlemen are brought into the hall.

The corps of officers having thus been organized, the president declares the conference opened and delivers the following address:

"GENTLEMEN: Of all the questions that have been created by commercial relations between nations there is none that is more complex than that which we are about to investigate. It has been discussed already in a number of international conferences.

"As early as 1863 delegates of four States—France, Great Britain, the Netherlands, and Belgium—endeavored to achieve a double object: On the one hand, to equalize the conditions of international competition; on the other, to safeguard the interests of public revenue.

"These first negotiations led to the conclusion of the convention of November, 1864, by which the contracting powers undertook to suppress all customs barriers between their respective markets and to maintain a precise correlation between the amount of the duty and that of the drawback. The convention of 1864 remained in force during

ten years, but it was vainly endeavored to renew the covenant and to remedy the causes by which its bases had been altered.

"For several reasons, and notwithstanding the five conferences of 1872, 1873, 1875, 1876, and 1877, no new agreement could be reached among the four States that had been associated in 1864.

"With as little success the British Government convened at London in 1887 the representatives of all the countries interested under several heads in this sugar question.

"You recall, gentlemen, the circumstances which prevented a successful issue of the convention concluded on the 30th of August, 1888, by the plenipotentiaries of Great Britain, Germany, Austria-Hungary, Belgium, Spain, Italy, the Netherlands, and Russia.

"One of these circumstances—and not the least—is that the agreement did not include the whole of the European countries from which beet sugar is exported. It was therefore natural that when the question came up of renewing negotiations, the first thought was to invite an exchange of views among those countries.

"It is, besides, but a source of congratulation to see other European states, undeniably interested on their part in the sugar question, lend their cooperation to this conference with a view of seeking a satisfactory solution.

"The problem which governments have so long applied themselves to resolve may be in its entirety condensed into the abolition of export bounties.

"How many are the motives which militate in favor of the suppression of these bounties!

"They are prejudicial to the finances of such country as grant them.

"They burden national consumption with an expenditure disproportionate to the receipts actually collected by the public treasury.

"They destroy conditions of normal competition on outside markets.

"Of all these manifold objections the last seems beyond contradiction to be the most hurtful to economical order.

"While no thought can be entertained of contesting the right of each state to protect its producers on the home market, must we not raise objection, in the name of sound economical reason, against a system which, by the action of actual subsidies, makes it possible to disturb outside markets?

"Such a practice might be carried so far as to infringe upon the respective sovereign rights of each nation if the privilege were denied of offsetting the bounty, by countervailing duties.

"It has already been seen that the United States have established countervailing duties on the importation of bounty-fed sugars. Other states may take the same course and by analogous decisions annul the advantages which exporting countries promise for themselves from the bounty system. Is it then not desirable that the interested countries should come to an understanding with a view of adjusting by agreement a grievous condition rather than to remain exposed to the contingency of compensating surtaxes?

"The general unification of sugar legislation and of the rate of duties, the suppression of any consumption tax on sugar, would surely put the desired goal within our reach. But these are two methods which belong to the domain of pure theory; the financial requirements of most countries would prevent their being put into operation.

"In the present condition of things it is permissible to assert that

the abolition of bounties is closely united with the adoption of a system known as the 'exercice,' the object of which is to ascertain the quantities actually produced and to collect the tax at the time when they are placed on the market for consumption.

"Belgium, to be sure, declared in one of the previous conferences that it would be impossible for her to introduce in the country the system of the exercice or anything like it. This attitude did not fail to create difficulties, and in consequence the Government of the King sought some means of giving up the system of equivalence.

"Belgium recently modified most of her excise laws. In regard to alcohol, for instance, she relinquished the tax on anticipated yield and established the tax on the actual yield. Satisfactory results attended the experiment, so that, I am happy to so declare at the opening of this conference, the Belgian Government is determined to follow up in the same sense the transformation of its sugar legislation.

"Gentlemen, Belgium may lay claim to the honor of having participated in a large measure in the fight against bounties. She was the first in 1861 and in 1862 to point out in official treaties the necessity for an international agreement in respect of sugar legislation. Since the London conference she has repeatedly and at very recent date increased the rate of 'prise en charge' (manufacturer's account with the government). She is now ready, in order to promote an understanding which seems to be desired by all, to sacrifice her former preferences as to a system of taxation and to adopt that which may win the adhesion of the other States.

"Belgium will deem herself happy if by means of a conciliatory attitude she may contribute to reaching a rational solution of the problem set before the conference as well as to the development of the general consumption of a staple which it is so essential to place within the reach of the most humble classes of society."

The president recalls that the Government of the King, with a view of facilitating the labors of the conference, has requested each one of the States participating therein to send a note containing a synopsis of the sugar legislation presently in force and giving the statistics of production, importation, and consumption of sugar, as well as the revenue collected on that product for the last fifteen years.

Proofs of these notices have been distributed to the delegates.

The president asks the assembly whether it would not be well before going on with the final printing of these notices, several of which had to be hastily translated, to let a committee examine them, which would at the same time give its opinion as to whether some of them could not be completed with advantage.

Mr. Raffalovich, Russian delegate, after making reservations in regard to such committing, expresses the opinion that the purpose will be answered if each delegation will undertake to revise the work relating to the country it represents.

The president believes that this procedure can be combined with his proposition, which might again be brought up, if need be, after the delegation interested shall have examined the documents which have been distributed and shall have indicated to the corps of officers such modifications as they would require. He observes that, besides the work of revising, a comparative examination of the notices on the legislation of the several countries would conduce to interesting conclusions.

With a view of allowing the delegates sufficient time to examine the documents in question, the president suggests that the second sitting be put off for two or three days.

Mr. Sebline, delegate of France, expresses the opinion that the distributed documents might be considered sufficient until each delegation shall have had an opportunity of revising the proof of the notice deposited by its government. It does not seem necessary to him that the final printing should be proceeded with before the conference shall have entered upon its labors.

This view being concurred in by the assembly, the president invites the several delegations to communicate to the secretaries as soon as possible their eventual observations, so that the final printing of the notices may be done without delay.

The president tells the assembly that when the question of determining the purpose of the conference came up the Government of the King bore two points in mind: To allow to the debates that were about to take place all the latitude that could be desired, and, on the other hand, not to put into the programme any subjects whose discussion, which would in a manner have been unavoidable, might have aroused justified apprehensions. It was thought that an acceptable solution had been found when the object of the meeting was given as "the examination of the question of suppressing sugar export bounties and the points connected therewith."

Mr. de Smet de Naeyer is convinced that the conference, with a full appreciation of the exigencies of the situation, will bring into the examination of the propositions that may be laid before it by the several delegations all the conciliatory spirit that may be desired. He can not conceal, however, that as soon as the first overtures were made by the Government of the King questions were put to it regarding the interpretation of which the formula adopted for the invitation is capable.

The Belgian Government deemed itself authorized to answer that, in its opinion, propositions having for an object to put a practical limitation on the scope of the debates would more usefully be presented in the assembly itself.

The president, in consequence, seeks the advice of the assembly upon the expediency of submitting immediately to the appreciation of the conference such observations as some of the delegations might have to offer in that order of ideas.

His Excellency Count d'Alvensleben (delegate of Germany) deems that, in the light of the declarations made at the opening of the sitting by the minister of finance, it would be desirable to cause the address of the honorable delegate of Belgium to be printed and distributed before entering upon a debate of the question that had just been raised.

The president puts this motion to a vote of the assembly, which assents thereto.

He believes that he is in accord with the views of the conference by moving that there shall be no meeting until Friday.

The motion is adopted, and the second sitting is fixed for Friday, June 10, at 10 o'clock.

The assembly then resolves that full sessions will preferably be held in the forenoon.

The president announces that proofs of the procès verbaux of the full sessions will be distributed to the delegates, as far as practicable, before the sitting following that to which they relate.

As soon as the delegates shall have been able to communicate their observations the procès verbaux shall be approved by the conference and then printed in their final form.

The members of the conference would assuredly assist in the speedy distribution of those documents if they would kindly supply, whenever circumstances would permit, a note giving the substance of their communications. This recommendation is specially adapted to cases of observations bearing on technical points or supported by figures.

Mr. Raffalovich asks that the procès verbaux and other documents that may be published by the conference may be given to the several delegations in sufficient number to enable them to transmit copies to their respective governments.

The president answers that this wish will be complied with.

The sitting is adjourned at 11.45 o'clock.

The president:

P. DE SMET DE NAEYER.

The secretaries:

J. JANSSENS.
J. BRUNET.

PROCÈS VERBAL OF THE SECOND SITTING.

FRIDAY, *June 10, 1898.*

Mr. Smet de Naeyer in the chair.

The sitting is opened at 10 o'clock.

Present: The delegates who attended the first sitting; also Mr. Juan Blas Sitges y Grifoll, inspector-general of customs, second delegate of Spain.

The president announces that Baron Lindenfels, consul-general of Germany at London, has just been designated as delegate of the Empire to the conference.

The procès verbal of the first sitting is approved.

The president announces that five delegations—those of Austria-Hungary, Belgium, Spain, Russia, and Sweden—have made some slight changes in the notice concerning sugar legislation and statistics in their countries.

The delegations of Germany, France, Great Britain, and The Netherlands have made it known on the other hand that the notices relative to those countries did not require any change.

These various documents will be very shortly published in their final form.

Mr. Raffalovich, Russian delegate, desires to point out that he confined himself to making simple changes of form in the notice concerning Russia. Nothing has been changed in the substance.

The president is of opinion that it would be well, with a view of facilitating the labors of the conference, to come to an agreement in regard to the order to be followed in the discussion of the several points coming within the scope of the conference. If none of the delegates proposes to offer a proposition in that regard, he will read a draft of a programme elaborated by the Belgian delegation.

Mr. Sebline, delegate of France, would like to submit to the conference an antecedent proposition.

The conference has been called together for the purpose of examining modifications in the fiscal treatment of sugar in the States here represented. If such modifications were to be evolved out of the deliberations of the conference, it would be desirable not to apply them until the sugar season 1899–1900. In other words, that the legislative measures that may be adopted will not go into effect until the 1st of September, 1899.

The beet contracts for the coming season have been completed. Many sales of sugar have even taken place already, for it is the part of prudence for a manufacturer to make sure of a part of his output when he signs his contracts.

To modify legislation in the course of the season would be serious injury to vested rights.

There would be another objection to this method of proceeding. If legislation was to depend at short notice on the decisions of the conference, there would be cause to apprehend that its doors would be stormed by speculators whom all should have at heart to keep away from this assembly.

Mr. Sebline adds that in making this proposition he is not standing as the champion of any particular interest in France. All sugar producing and consuming countries are interested in the same degree. His only idea in proposing this course of action is for orderly, regular, and fair proceeding.

The president states that one of the numbers of the programme precisely answers the special point just mentioned by the Honorable Mr. Sebline, that relative to the date of the going into effect of the eventual convention. He admits that it would be difficult if not impossible to put the new legislation growing out of the labors of the conference into operation before the coming season. He shares in that respect the views of Mr. Sebline, and, unless there should be objection, he will consider the proposition in question to be accepted.

The president observes that the press will like to be informed in regard to the labors of the conference; he asks the opinion of the delegates on the point of knowing whether the debates shall be kept secret or whether it would not be well to hand to the newspapers a communication that would be drawn up by the secretaries.

Mr. Raffalovich recalls that, in preceding international conferences, proceedings were not communicated to the press. With a view, however, of preventing the circulation of false or inaccurate reports, he favors the sending to the newspaper of short notes which would satisfy the legitimate curiosity of the public.

The president is of opinion that the communications to be made to the press might be drawn up at the end of each sitting; they would at once be brought to the knowledge of the delegates, who might thus offer their observations.

His Excellency the Honorable Sir Francis Plunkett, delegate of Great Britain, approves this manner of proceeding.

His Excellency Count Khevenhuller Metsch, delegate of Austria-Hungary, says that so far as he is concerned he would not object to large abstracts being made from the procès verbaux of the sittings in behalf of the press. By so doing imaginary accounts would be prevented.

Mr. Sebline shares this view. He would even see no objection to the procès verbaux being published in their entirety, provided, of

course, that such publication should be made only after they had been approved by the conference.

On the motion of the president, the conference postpones its decision until the next sitting.

His Excellency the Honorable Sir Francis Plunkett asks for some information concerning Mr. Sebline's proposition in regard to the time of the going into effect of such new legislation as might grow out of the labors of the conference.

Mr. Sebline repeats the substance of his proposition. He adds that, of course, his proposition would be without effect if the labors of the conference were to be fruitless.

Upon the desire expressed by His Excellency the Honorable Sir Francis Plunkett, the conference postpones until the next sitting its decision upon the pending proposition.

The president, reverting to the order of ideas entered upon at the opening of the sitting, expresses the opinion that the order of the labors of the conference might be determined as follows:

1. Expediency of the suppression of export bounties. Modifications to be eventually brought into the legislation of the countries represented.

2. Conditions which the countries concerned would put upon their renouncing the bounties if they so renounced them:

(*a*) Determination of the countries which should of necessity participate in the agreement in order to make the latter efficient and feasible.

(*b*) Recital of the measures which the associated States would have the faculty or intention of taking toward the nonparticipating countries that would maintain bounties.

(*c*) Indications of the mitigations and provisional dispositions to be authorized, if need be, by reason of exceptional conditions.

(*d*) Other terms.

3. Obligations to be assumed by the contracting parties during the existence of the agreement to be concluded. (Yield in refining, surtaxes, etc.)

4. Procedure to be followed in order to settle questions of enforcement or interpretation which might arise among associated States.

5. Date for the enforcement of the agreement and duration of the understanding.

6. Conditions under which accessions of other States to the agreement could be effected.

7. Provisions or reservations to be inserted in commercial treaties, with a view of facilitating the settlement of the sugar question.

8. Probable consequences of a failure of the conference.

It goes without saying that this programme is not limitative. Certain points are expected to receive broader consideration. In this wise there is connected with No. 3 the technical question of the yield in refining. An agreement on that question seems indispensable, for if it were otherwise, the indirect bounty which is granted to the production of raw sugar and which all have interest in doing away with would not be long in reappearing in some other form.

The question of surtaxes will also be raised with profit when No. 3 comes into discussion. It is fair and reasonable that each country should keep control of its home market, and a moderate surtax seems to answer that purpose. Belgium may be cited as an instance, the sur-

tax being not more than 4 francs 50 c. per 100 kilos and yet there being no importation of raw beet sugar.

Mr. Raffalovich wishes to make reservations in regard to the special point of customs duties in force in Russia. The internal regulations of his country seem to him to be outside of the jurisdiction of the conference.

The president observes that if other delegates had to formulate reservations as absolute as those that had just been heard, the importance of the labors of the conference would be singularly reduced.

Mr. Sebline recalls that the French Government on adhering to the conference made express reservations as to the discussion of certain points. These reservations are known to the Belgian Government; the honorable delegate will lay them before the conference when he shall have the floor.

His Excellency Count d'Alvensleben, delegate of Germany, reads the following declaration:

"The delegates of Germany are in a position to determine in a few words the principles governing the attitude of the Empire toward the question of sugar bounties.

"The views of the Empire on this question are well known. At the time of the London conference, in 1887, Germany had already sided with the States that declared in favor of suppressing the bounties. No practical result came out of those deliberations, yet Germany did not allow herself to be discouraged, but, on the contrary, endeavored to follow up singly the course that she had found to be the correct one, being firmly convinced that the other States interested would follow sooner or later. The law of 1891 resulted therefrom. By this law the system of the duty on raw material, which up to that time had had the effect to grant a premium to exported sugars, and which had already been discarded in part by the previous law of 1887, was entirely abolished. For the purpose of making the transition to a bountyless condition easier for the manufacturer, a direct bounty of small consequence was introduced for a short while.

"Germany being disappointed in her anticipations regarding the action of other States, found herself under the necessity of rescinding those decisions in part so as to protect her industry against foreign competition on the markets of the world. By the law of 1896 she introduced a higher direct bounty not only for a certain transitory period, but as a permanent bounty. Yet, while introducing that law, the Imperial Government made an express statement that none of the principles by which it had been guided theretofore in regard to sugar export bounties were modified thereby. The Imperial Government reserved to itself at the same time the faculty of abolishing the bounties in the event of its being successful in inducing other States to adopt similar measures. The Reichstag on its part, while passing the law, addressed to the Government an express request that it would seek to do away with the export bounties as soon as possible by means of an international understanding.

"The Imperial Government is merely conforming to these views of the legislative power—which, moreover, have not changed since—by receiving with the heartiest sympathy all endeavors tending to bring the system of bounties to an end. It would therefore stand ready to lend its support to all the efforts made in that direction with all the means at its disposal."

The president directs that this declaration be made of record.

His excellency Count Khevenhuller Metsch indorses entirely, in his name and in the name of the delegates of the Government of Austria and of the Government of Hungary, the declaration of the delegate of Germany. The conditions of the sugar industry in Germany and in Austria-Hungary are analogous.

The governments represented by the honorable delegate would join in every measure that would entail a suppression of the bounties.

The president wishes to state that the fact of discussing any point whatever on the programme does not imply either directly or indirectly the adhesion of the government to the principle of the questions examined. Each delegation will be at liberty to cause its reservation on the examined points to be entered after their discussion.

He adds that it would not be in consonance with the interests of participating countries to cut every discussion short by mere declarations of principle, and appeals to the spirit of conciliation of all the delegates present.

Mr. Raffalovich remarks that the presence of the Russian delegate at the conference is the most direct token of the sympathy which the Imperial Government accords to the efforts made with a view of abolishing or at least reducing export bounties.

Russia does not pay any. She bears the counter effect, and the consequent perturbations on the markets of the world affect her native industry.

Mr. Raffalovich is convinced that an exhaustive discussion in the conference can not but throw a useful light on the complex question of sugar bounties.

If Mr. Raffalovich has been induced to make reservations as above indicated, it is because he deemed it his duty to take into account a document laid before the British Parliament and containing the correspondence relative to the calling of the international conference. There seems to be in that correspondence some divergence from the information given to the Russian Government regarding the programme of the conference.

Mr. Capelle observes that at the opening sitting the head of the Belgian delegation was careful to declare that certain questions had been put to the Government of the King in regard to the interpretation that could be given to the formula of invitation. Mr. de Smet de Naeyer consulted the assembly upon the expediency of submitting forthwith to the appreciation of the conference such observations as certain delegates might have to make in that connection.

The countries which have interrogated the Belgian Government concerning the programme of the conference are: France, Great Britain, and Russia.

Mr. Capelle is of opinion that it might be useful to place before the members of the conference the diplomatic correspondence that has been exchanged in this respect. There would be a double advantage in this manner of proceeding: The conference would gather precise information upon points that may exercise a great influence upon the conduct and outcome of its labors, and on the other hand the unity of views which prompted the overtures made by the Belgian Government to the various governments here represented would be brought out with greater force.

The president asked whether there is unanimous assent to such a procedure.

His Excellency the Honorable Sir Francis Plunkett says that he has no objection to make.

Mr. Sebline makes a similar statement.

The president announces that the correspondence in question will, in consequence, be printed and distributed before the next meeting.

His Excellency Jonkheer de Pestel makes the following statement:

"The delegates of the Netherlands are for the abolition of sugar bounty. They will therefore give the keenest interest and sympathy to the examination of any proposition that will be offered to them to the end of achieving such abolition. They are of opinion that a gradual suppression of the premiums, distributed among a certain number of years until complete suppression, may be of such a nature as to facilitate an agreement upon the question among the interested States."

The president directs that this declaration be recorded.

His Excellency the Honorable Sir Francis Plunkett reads a declaration, the text of which is as follows:

"We are charged by the Government of Her Britannic Majesty to seek an understanding among the interested countries so as to arrive at the total suppression of sugar bounties.

"The Government of Her Britannic Majesty is led to this aim by considerations of paramount importance. The principles of free trade, which have prevailed in the United Kingdom for half a century, demand that produce may be sought everywhere on its natural markets without hindrance. From the moment when this principle is departed from through artificial means the course of free trade is interrupted, industries begin to be disturbed, and products are sold at unnatural prices; the consumer profits thereby, but in a very slight and transitory manner, and sudden and considerable fluctuations are apt to occur. These fluctuations, besides causing an uncertainty of prices from which the consumer greatly suffers, destroy all confidence and paralyze all industries that are not favored by the State. The producing countries which nature favors most are frequently compelled to give up their natural position of priority, and the market has to be content with products drawn from localities which, deprived of artificial subsidies, might perhaps not be indicated as competitors.

"In this order of thought it is sufficient to cite the present situation of sugar industries in the British West Indies as well as in the East Indies, and the large number of refineries in the United Kingdom that have become idle.

"The Government of Her Britannic Majesty has therefore made it its duty to do all that is possible with a view of arriving at an international understanding to bring to an end a situation that is so much to be lamented and so hurtful to the interests of the British Empire.

"Our part, gentlemen, will be to listen with attention and benevolence to the propositions that may be put forth by the delegations of the States where the system of bounties is presently in force, and it is to be hoped that these propositions will give birth to an arrangement that will do away with this system.

"Our Government sincerely wishes that the result of this conference will be such as to save it from the necessity of considering ulterior measures which might become necessary, particularly in the interest of the British colonies, in order to remedy the very regrettable situation created by the bounty system."

The president directs that this declaration be recorded.

His Excellency Count Gyldenstolpe reads the following statement:

"The initiative taken by the Government of Belgium, by which the prospect is opened of a possible understanding for the suppression of export bounties, has been received by the Swedish Government with lively satisfaction. On accepting the invitation to send delegates to a conference for the examination of the question of the suppression of sugar export bounties and *points connected therewith*, the Swedish Government made no reservation, and the Swedish delegation therefore sees, for its part, no objection to the question being examined in all its phases and the scope of its deliberations being widened so as to permit also of the examination of points which might seem connected with the main question.

"Such a discussion does not seem to be likely to bind the governments of the different countries that are represented at the conference with respect of their internal legislation and customs duties. In this field I must reserve for my Government the right to appreciate the extent to which the propositions or recommendations of the conference could be accepted.

"I deem it my duty to add, as, besides, the conference may have satisfied itself by reading the notice concerning the sugar system in Sweden that has been communicated to it, that Sweden grants neither bounties nor drawback to exported native sugars. So long as Sweden does not export, there seems to be no reason for requesting her to change her system of taxation."

The president directs that this declaration be recorded.

The president consults the assembly on the point of knowing whether there is occasion to enter upon an immediate discussion of the main lines of the programme or whether it is not preferable to cause the text of the draft which has been communicated to the conference to be first printed.

His Excellency the Honorable Sir Francis Plunkett indorses this last suggestion, which is adopted by the assembly.

The president is of opinion that the conference will not be able to discuss in full session all the questions that are carried on the programme. He suggests that committees be organized which would be charged with the examination of certain points. The reports embodying the labors of the committees would be laid before the conference. By this means the discussions in full sessions would be made clearer and more concise.

The committees would consist of delegates from all the countries represented. Moreover, it is understood that delegates that would not be on such committees could always attend the sittings.

Mr. Sebline, before supporting the proposition to create committees, asks that the questions that would be intrusted to them be made known. He calls attention to the fact that there are some points which he is not empowered to discuss. He feels constrained to make reservations by reason of this circumstance.

The president observes that his intention for the present was only to suggest to the conference the very principle of organizing committees so that such delegates as were opposed to it might submit their remarks.

He adds that certain technical questions, such as the yield in refining, could not be profitably discussed in full session, except after examination in committee.

Mr. Sebline admits that as regards certain questions of a particular technical order, committees are the proper course. But he should wish that before committing the conference could, through an exchange of views in full session, ascertain whether an agreement can be reached among the several delegations.

He therefore asks that the question as put be postponed until such time as a discussion shall have been had in the conference itself upon the whole of the points to be examined.

The next sitting is fixed for Saturday, June 11, at 10 a. m.

The sitting is adjourned at 11.15.

The president:

P. DE SMET DE NAEYER.

The secretaries:

J. SANSSENS.
J. BRUNET.

DRAFT OF A PROGRAMME PRESENTED BY THE PRESIDENT DURING THE SITTING OF JUNE 10, 1898.

1. Expediency of the suppression of export bounties. Modifications to be eventually brought into the legislation of the countries represented.
2. Conditions which the countries concerned would put upon their renouncing the bounties if they so renounced them.
(*a*) Determination of the countries which should of necessity participate in the agreement in order to make the latter efficient and feasible.
(*b*) Recital of the measures which the associated States would have the faculty or intention of taking toward the nonparticipating countries that would maintain bounties.
(*c*) Indications of the mitigations and the provisional dispositions to be authorized if need be by reason of exceptional conditions.
(*d*) Other terms.
3. Obligations to be assumed by the contracting parties during the existence of the agreement to be concluded (yield on refining, surtaxes, etc.).
4. Procedure to be followed in order to settle questions of enforcement or interpretation which might arise among associated States.
5. Date for the enforcement of the agreement and duration of the understanding.
6. Conditions under which accessions of other States to the agreement could be effected.
7. Provisions or reservations to be inserted in commercial treaties with a view of facilitating the settlement of the sugar question.
8. Probable consequences of a failure of the conference.

PROCÈS VERBAL OF THE THIRD SITTING.

SATURDAY, *June 11, 1898.*

Mr. de Smet de Naeyer in the chair.

The sitting is opened at 10 o'clock.

Present: The delegates who attended the preceding sitting; also, Baron de Lindenfels, delegate of Germany.

The president recalls that the conference reserved the decision to be taken in regard to communications to the press. He suggests that the duty of drafting, during each sitting, very short account of the debates, which the delegates could become acquainted with before it was delivered to the newspapers, be intrusted to the secretaries.

Mr. Sebline, delegate of France, recalls that there had been a question of communicating to the newspapers the procès verbaux after

their approval by the assembly. This solution, which would free the responsibility of the secretaries, might, to be sure, be open to objection in certain contingencies, but it would be understood that the conference would remain at liberty to prevent communication of all or part of the procès verbaux when it should deem it expedient.

He points out that the conference is likely to discuss the interests of an industry of considerable importance, and it would be difficult to leave it in complete ignorance of deliberations in which it is so closely concerned.

His Excellency Count d'Alvensleben, delegate of Germany, observes that the publication of the procès verbaux of an international conference before its labors have been concluded would be contrary to all precedents.

Mr. Sebline does not feel inclined to insist upon the acceptance of a suggestion that would not be in conformity to diplomatic usage.

The president states that, as intimated by Count d'Alvensleben, there might be some objections to the publication in extenso of diplomatic documents even before they had been transmitted to their Governments.

Moreover, very few papers would print so extensive an account. They would confine themselves to publishing extracts, and there might result therefrom disputes based on certain passages, which being printed separately, would not reflect the exact complexion of the debates.

The president announces that the corps of officers has had prepared a condensed account of the two first sittings. He proposes that they be read so that the assembly may judge whether they have been drawn in accordance with its judgment.

Mr. Sebline states that the proposed arrangement is quite satisfactory to him.

Mr. Capelle, delegate of Belgium, reads the résumé prepared for the first two sittings.

The president says that the succinct reports of subsequent sittings destined for the press and which will besides be held at the close of each sitting at the disposal of all the interested delegates for the purpose of ultimate correction, will be, if the conference has no objection, drawn up in the same sense.

No objection is made to the proposition. It is declared adopted.

Mr. Sebline, delegate of France, expresses a desire that the question of postponing the enforcement of such legislative reforms that might result from the labors of the conference to the season of 1899–1900 be settled as soon as possible. His Excellency the Honorable Sir Francis Plunkett had asked that the examination of this point be deferred until the next sitting.

His Excellency the Honorable Sir Francis Plunkett, delegate of Great Britain, states that while he concedes there may be later on good reasons for acceding to the proposition of the honorable delegate of France, the British delegation regrets its inability to give it its assent at present.

It must reserve its attitude in this respect until the nature of the arrangements that may come out of the deliberations of the conference can be appreciated.

Mr. Sebline can but take note of the reservation made in the name of the delegation of Great Britain. He deems it his duty to recall that the sole object of his proposition was to insure respect for vested rights. At the present time beet contracts are based upon existing legislation,

and it would be an actual act of iniquity for producing countries to apply another legislation to contracts that have already been concluded. But the consuming countries are no less interested in the question. They have also concluded, even now, many purchases of sugar, and new legislative provisions could not be applied to the coming season without disturbing commercial transactions. Great Britain is, then, like the producing countries, interested in not having her market threatened with speculative manipulations.

Moreover, it is understood that the proposition would be enforced only in the case of legislative reforms on the part of the participating States being entailed by the labors of the conference.

Mr. Raffalovich, delegate of Russia, states that he gives his entire adhesion to Mr. Sebline's proposition. It seems to him, as to the honorable delegate of France, to be one of public order, justice, and equity.

His Excellency the Honorable Sir Francis Plunkett observes that by temporarily reserving its attitude on this question the British delegation only puts off for a few days the decision that will have to be taken, inasmuch as the labors of the conference can not be prolonged beyond a necessarily limited term.

Mr. Sebline states that France has no particular interest in the question; he does not think himself bound to insist for the present on his proposition if it does not receive unanimous support: the responsibility of his Government is henceforward relieved.

The president observes that the question will inevitably come up for discussion when No. 5 of the draft of programme shall be taken up. There will thus be but short delay in consequence of the postponement.

He adds that some of the parliaments will not convene until fall and will not be able to pass upon modifications of a legislative order until the coming sugar campaign shall have already been opened. In any event the enforcement of eventual reform could not be possible except from the beginning of the 1899–1900 season.

The president opens the discussion of the draft programme communicated to the assembly in the second sitting.

His Excellency Count Khevenhuller Metsch, delegate of Austria-Hungary, observes that this discussion would require a careful previous examination of the documents which have just been distributed to the members of the conference at the hands of the delegates; under the circumstances he moves that the discussion of the programme be put off until the next sitting.

Mr. Raffalovich expresses the opinion that such delegations as would be in a position to declare themselves concerning the programme could do so immediately; the other delegations might reserve the right of making their opinions known in the next sitting.

His Excellency Count Khevenhuller Metsch says that his only object was to assign a reason for the abstention which the Austrian-Hungarian delegation will be held to in the course of the present sitting.

The president observes that the wish of the honorable delegate of Austria-Hungary would be satisfied by deciding that the discussion on any point of the programme can not be closed this day.

The assembly decides accordingly.

The president reads No. 1 of the draft programme, reading as follows:

"1. Expediency of the suppression of export bounties. Modifications to be eventually brought into the legislation of the countries represented."

He believes that the conference will be unanimous in regard to the first of the purposes so specified—expediency of the suppression of export bounties. It is the very object for which the conference has been convened, and the adhesion of all the delegates seems to be assured in advance.

As to the "modifications to be eventually brought into the legislation of the countries represented," it is obvious that any international agreement presupposes certain modifications of internal legislation; it will notably be the case with the suppression of bounties.

It seems, then, that while questions of detail may be reserved, No. 1 might be admitted in principle.

As regards the examination of points of detail which may be raised by this part of the programme, the president renews the proposition that he put forward in the preceding sitting. There would be at first an exchange of views in committee concerning these points, which would be subsequently embodied in a report, the conclusions of which would be examined in full session.

Mr. Sebline, delegate of France, sets forth as follows the reservations on the part of the French delegation suggested by the second part of No. 1 of the programme submitted to the deliberations of the conference:

"GENTLEMEN: I can not allow to pass without any observation, or, rather, without an express reservation, the second part of the first article of the programme of the conference, entitled 'Modifications to be eventually brought into the legislation of the countries represented.'

"In this connection I wish to thank his excellency the minister of finance for his kindly causing to be published and distributed to us certain diplomatic documents, among which is the correspondence exchanged between the Government of the King and that of the Republic on the occasion of this conference.

"This exchange of correspondence leaves no room for any doubt as to the nature of the instructions that have been issued to us.

"Indeed, I read in the letter dated March 7 last and addressed by Baron d'Anethan to Mr. de Favereau:

"'His excellency (Mr. Hanotaux) requests me at the same time to let you know that the Government of the Republic deeming, like the Government of the King, that the abolition of export bounties would be a profitable measure in many respects, is disposed in principle to participate in a conference at which all the interested countries should be represented, and where divergent opinions might, in consequence, after exhaustive debate, lead to mutual compromises.

"'However,' adds the minister of foreign affairs, 'it must be well understood that in the opinion of the Government of the Republic, the discussions should exclusively bear upon the question of export bounties and that the internal régime of each State—for instance, as regards France, that which results from the act of July 29, 1884—will not come within the debates of the conference.'

"This very formal reservation was confirmed by Mr. Gerard to Mr. de Favereau on the 24th of May last, in the following words:

"'I am instructed by my Government to give notice of these designations (that is, the designation of delegates) to the Royal Government. I am charged to recall at the same time that the Government of the Republic has sent representatives to the international conference at Brussels with the express reservation that the discussions will exclu-

sively bear upon the question of export bounties and that the internal régime of each State—for instance, as regards France, that which results from the act of July 29, 1884—will not come within the debates.'

"The situation of the French delegates in this conference is therefore perfectly clear. We are held to reserve, in the most absolute fashion, the internal sugar legislation of France, and I beg you to note that the accession of France to the conference was given with that reservation. By enouncing this reservation I do not bring up any new point. I am merely confirming the declarations of my Goverment set down in the diplomatic documents that have been distributed to you.

"I might confine myself to enouncing this reservation. Out of deference to the conference I beg leave to vindicate it.

"In order to do so I am compelled to go back rather far into the sugar legislation of Europe.

"It was not France, gentlemen, that introduced in Europe the bounty system. She was the last to avail herself of it. It was at her that it was originally and for many years aimed. She was the first to create a consumption tax: the first to apply the system of the "exercice," and she has applied it with such strictness that not a speck of sugar escaped paying the tax.

"I add that France came very nearly falling—indeed, at one time did fall—a victim to her fiscal régime, her good faith, her straightforwardness in matters of taxation.

"While she was remaining bound to the consumption duties, other nations, by means of condescending legislation, of legislation more favorable to the producer, imparted to their industry a truly prodigious development. Thus it was that Germany passed from 186,000 tons in 1871–72 to 1,146,000 tons in 1884–85, and that in the same period the production of France fell from 337,000 tons to 273,000 tons. So that at that time France found herself in danger not only of witnessing the end of her export trade, but also of losing her own market. I am only reciting here well-known, undeniable, notorious facts.

"In this wise the country which under the pressure of necessities still fresh in all memories had discovered beet sugar, the country that had bestowed that source of wealth on Europe, was threatened to be stripped of it, not by the natural operation of events, but by competitors who were astoundingly favored by their legislation.

"It was then that clear-minded and farseeing statesmen, foremost of whom was the present president of the council of ministers, Mr. Meline, decided to restore to France an industry the monoply of which she long enjoyed and of which she should never have been stripped.

"Gentlemen, let me here put in a parenthesis. It was not only the interest of sugar manufacturers that France had to safeguard, it was the interest of her agriculture itself. Among the persons who are doing me the honor of listening to me, many are practitioners, men of the trade. It is not to them that I shall teach that the essential condition for good cultivation, for intensive cultivation, is to hoe while laying out the ground. Thus the maximum yield of wheat is obtained.

"Now the production of wheat in France is not only an agricultural interest of the first order, it is an essential condition for our national independence.

"We are not under the same conditions as Great Britain, who could afford to sacrifice her agriculture, in part at least, for the advance of her industry and commerce. I very much admire Robert Peel. I am

not unaware of the dazzling development which his reforms gave to British trade. But I can not ignore the fact that they have also brought the production of wheat in the United Kingdom down from 76,000,000 to 26,000,000 hectoliters; that Great Britain is now compelled to draw her food stuffs from abroad, I might almost say from day to day; that at any rate she has scarcely a supply for a few weeks.

"Gentlemen, why has it been, why is it still possible, for England fearlessly to look upon such a situation? I have no hesitation in saying so; it is because she is the mistress of the seas.

"France did not, could not, advance such a claim, and hence she must keep a careful eye on her supply. It is her duty to develop and favor her agriculture to the point of meeting her own requirements. Such is the end that she has sought by means of various laws which I shall not enumerate, and especially of her sugar laws.

"But, gentlemen, is this concern special to France? Is it not shared by all the nations of the Continent? And we ought to congratulate ourselves greatly that it be so, not in a narrow national interest, but I venture to say, in the interest of the whole of mankind.

"Thanks to these protecting laws, the price of wheat fell to rates that put it in the reach of all, and no living being is henceforth liable to be in want of the indispensable food stuff. Thanks to such legislation the greatest of all scourges was this year spared to Europe.

"What, indeed, would have happened if all the States on the Continent, following England's example, had allowed their wheat cultivation to wane? You may form an idea of it from what I am about to say concerning France, with whose resources and requirements I am better acquainted. While wheat cultivation fell in the United Kingdom from 76,000,000 to 26,000,000 hectoliters, it rose in France from 70,000,000 to 120,000,000. A bad crop made it necessary to import 25,000,000 hectoliters into France. But imagine what would have been required to feed her population if her normal production had sunk in the same proportions as in England. What I have just said applies to the whole Continent, for crops had been poor everywhere in Europe. America was able to supply our deficiencies because we had maintained an expanded wheat cultivation throughout the whole of Europe. Had it been otherwise, I venture to say that we would have been exposed to one of these dearths of which we find so frequent and grievous instances in the history of earlier centuries.

"Gentlemen, I apologize for having allowed my thoughts to expand in a measure that may be excessive upon the subject which is perhaps foreign to the immediate object of our deliberations. The kindly attention with which you have favored me will be my excuse.

"What we must retain of this digression is that the encouragement that we grant to our sugar industry is above all an encouragement to our agriculture and in particular to the production of wheat in our country. It is part of a system of legislation which economical necessities demand of us.

"When France, under the pressure of necessities that I have recalled above, had to modify her sugar legislation, what did she do? Did she purely and simply borrow the legislation which had built up the fortune of her powerful rival? No; she borrowed from Germany the tax on beet, but combined it with the tax on sugar and maintained the "exercise," so that while the new legislation allows a bonus to the manufacturers, a point which we do not dispute, yet it does not let a

single speck of sugar escape the payment of the tax. The old French legislation is still in operation with us in all its sternness.

"Well, did this new legislation that has drawn so many criticisms bring about such results as to justify, if not fear, at least apprehension among our neighboring nations, especially the competing nations.

"Gentlemen, you will form an idea about this from the figures drawn from documents supplied by the Governments represented in this hall.

"There is, first of all, one point that I believe is beyond dispute. That is that all sugar-producing nations are justified in wholly reserving their markets for themselves. Sugar is a luxury upon which most of the States have imposed heavy duties. It is natural and lawful that the production of this staple should be reserved for their citizens.

"If we take this for our ground, if we limit our comparisons to the exporting power of the principal sugar-producing countries, we will then see how little danger there is in French competition—then the legend built up about this question will vanish like a dream.

"Let us take the exports of France for the last ten years, the current year 1897–98 excepted, and I will later on give reasons for the exception. Take up our statements, compute our exports, you will see that the average amounts to 215,000 tons. During the last year, 1896–97, the export aggregated 223,000 tons.

"What is the corresponding exportation from Germany? If I mistake not, it amounts to 1,186,000 tons. That of Austria-Hungary is over 500,000 tons. The two central Empires export together more than 1,700,000 tons of sugar. And could it be said that the French exportation, of 220,000 tons, more or less, constitutes a menace to our neighbors? To bring these figures together is to answer the question triumphantly. It is, as I said before, destroying the legend; I venture to say that it is no more.

"Thus France, where beet cultivation was born; France, who for many years enjoyed the monopoly of this cultivation, is now but the third exporting country. She comes after Germany; she comes after Austria-Hungary.

"I am mistaken. We have fallen to the fourth rank. Belgium, with an exportation of 236,000 tons, has forged ahead of us.

"But this is not all. We are convened here to give particular examination to the questions connected with the production of beet sugar.

"Is this French exportation of 223,000 tons the sole consequence of our beet production? Not in the least. In consequence of the prevailing legislation, which compels the sugar of our colonies to come to France if they are to avail themselves of the advantages conferred by our legislation, all the sugars from the French colonies come to France. The production for 1896–97 amounted to 112,000 tons. There is no temerity in claiming that but for this particular feature of our legislation all such sugar would have been directly shipped to consuming countries. And then to what figure would the French exportation be reduced? Exactly 111,000 tons.

"Yes, gentlemen, the surplus of the output of French beet sugar destined for export is 111,000 tons.

"I am, then, justified in saying that the exportation of French beet sugar amounts to 111,000 tons as against 1,700,000 tons for the exportation from Germany and Austria-Hungary, and yet it will be said that we are flooding Great Britain with our products.

"If we divide the exported sugars into raw and refined sugars, we arrive at results that are not less conclusive.

"English refiners complain. I am aware of it, that refined sugars from the Continent are in disastrous competition with them.

"But whence do the sugars come?

"If I revert to the season 1896–97, which I used a while ago as a basis of comparison, and if I look for this information in the English statistics themselves, I find that out of the 1,476,000 tons of refined sugar imported into Great Britain, France comes in for 145,000 tons, while Germany has shipped 1,012,000 tons—that is to say, seven times as much as France.

"Here again it is obvious that French production should not excite any jealousy in England.

"I dare say, gentlemen, that I have fully demonstrated that the part of France in sugar production is reduced to its true proportions, which are so modest, forsooth, that no nation should take umbrage at it.

"But it may be objected that I have left out the current season, during which the exportations are estimated to be 453,000 tons—twice as much as the year before.

"In my opinion this unusual expansion of our exporting trade must be ascribed to three causes: The disturbance created at one time in our exportation by the change of legislation which established the export bounty with us; the entirely extraordinary yield of beet during our last season. This fact was not peculiar to France, but common to the whole of Europe. Finally, the establishment of the export bounty, which proved, I must confess, a powerful stimulus to our exportation.

"And when we come here to offer it in sacrifice after having enjoyed it barely two years, is it possible to say that we come here empty handed—that we are not animated by a sincere wish for conciliation?

"But if we can, if demanded, sacrifice to you our export bounty in return for a corresponding sacrifice of German and Austro-Hungarian export bounties, we can not under any circumstances permit a hand to be laid on our internal legislation. I believe I have offered a superabundant demonstration of its necessity by my foregoing remarks.

"Allow me to add that the aim contemplated by the lawmakers of 1884 is still to-day far distant from our reach. It was then a question of saving our sugar industry from ruin. But what was then the condition of our sugar industry?

"Among the causes which then contributed and still contribute to its inferiority was its old standing.

"When the sugar industry was established in our country it was meeting different requirements and an order of ideas entirely unlike that which confronts us to-day.

"It was at first a family industry. The grower erected a sugar plant as he now erects a distillery, with a view of handling only his own crop of beet. In the beginning he set aside the whole or a part of his barn for this plant and there are to-day in France factories that are so established.

"By degrees sugar industry made the strides with which we are now acquainted, but the transformation of the equipment was attended with some difficulty. It is still far from being completed in France. Out of 559 factories that we had in France in 1871 there now remain 358, and a further decrease of that number is anticipated. These 358 factories turn out 700,000 tons of sugar, while in Germany 399 factories produce 1,836,000 tons and in Austria-Hungary 348 factories 830,000 tons.

"Therefore the cost price is much higher in France than in Germany

and in Austria-Hungary. It is a frequent occurrence to find in Germany factories whose cost of manufacture vary between 7 and 8 francs. It is seldom that any are found in France whose cost of manufacture falls below 11 francs. We are working against a handicap of 4 francs at least.

"We raise beet at a much higher cost, for manifold reasons which it would take too much time to enumerate here. I shall only cite one: That is, that our maritime climate, subject to numberless variations, is less favorable than the continental climate of central Europe for the quality and preservation of the beet root. This is a new cause of inferiority.

"Thus are added to these causes of natural inferiority, due to the climate itself, many of the causes which make conditions for our sugar industry more difficult than in the great empires in the center of the Continent. The necessity under which we found ourselves since 1884 to change our methods of cultivation, to transform our equipment, constitute reasons why the advantages conferred by internal French legislation were more in the nature of encouragement to agricultural industry than of actual bounties. We therefore absolutely deny that they have such a character.

"And this is proved by the condition of inferiority in which we yet find ourselves in comparison with our competitors.

"We were then bound to make an entire reservation of our internal sugar legislation, and the only object of this long statement was to justify this reservation, which the conference will be good enough to have made of record.

"I may add that if uniform legislation was feasible, which I doubt, if it came to be applied to the whole of Europe, France would not be alone in seeing her interests compromised. I can hardly believe that Belgium and Holland could long withstand such a régime, and I do not even feel sure that Austria-Hungary would be favored by it.

"I will take the liberty of advising such states as would be inclined to experiment it not to enter upon engagements of too long a duration, so that such a régime may not entail for them irreparable consequences.

"As far as France is concerned, I have disclosed the views of her Government in the matter: Sacrifice of the direct export bounty, maintenance of our internal legislation.

"This legislation is not immutable; far from it. Since 1884 it has been modified three times, and each time with the result of diminishing the advantages conceded to our sugar industry. It is not impossible that new reductions will in the future be brought about by financial necessities. It is even likely. But the Government of the Republic intends to be and remain the only judge of the question."

The president deems it useful to determine with some precision what seems to be the field of the labors of the conference.

Adverting to the very interesting speech which has just been delivered by the first delegate of France with a view of emphasizing the great interest taken by that country in the prosperity of its sugar industry as being intimately bound to the destinies of its agriculture, he states that the protection of the home market is not brought in question through the exchanges of views which have taken place in the conference. None of the countries represented can advance the claim of regulating the home markets of its neighbors. In the opinion of the Belgian delegation, No. 1 of the programme as worded does not imply an immediate discussion of the details of foreign legislations. The pur-

pose is simply to lay down certain principles, without which it would hardly be possible to perceive how bounties could be suppressed. In this wise the present Belgian legislation would hardly be compatible with the object sought by the countries represented at the conference. Therefore, as was declared in the course of the first sitting, the Government of the King is determined to proceed with the transformation of its legislation in the direction of the "exercice," which, as admitted by the speaker, lays the foundation for French legislation.

The French delegation would be in error if it believed that the principle of the law of 1884 was being brought into question; whoever may examine that law will acknowledge that it is in accordance with the principles of the "exercice," and that it is therefore in no way an obstacle to an international arrangement.

Mr. de Smet de Naeyer is therefore of opinion that the wording of No. 1 may be considered as implying the notion that the bounties can not be suppressed unless certain principles are inscribed in the legislation of the several countries. The question will be to discuss these principles while temporarily leaving cases of application out of the debate.

The delegate of Belgium hopes that the French delegation will agree with him that the discussion may be opened on these principles without bringing forth reservations which might exclude certain delegations therefrom.

Mr. de Smet de Naeyer would like to say a few words before concluding in reply to the remarks made by Mr. Sebline in regard to sugar production in Belgium. Since last year manufacturers are taxed in the ratio of a "prise en charge" of 1,900 grammes per hectoliter of juice of 1 degree's density. It has been ascertained that this method of taxation allows a certain surplus of manufacturing which varies from season to season according to the richness and purity of the beet. It is estimated that the surplus of production represents on the average 10 per cent of the quantity of sugar taken in charge. It would be easy to prove the statement.

Mr. Sebline does not believe it expedient to make a separate discussion of the taxing system in force in Belgium. Having made reservations for the French legislation, he would have some delicacy in subjecting to a detailed examination the sugar legislation of the several countries so far as their internal régime is concerned.

When the discussion shall have made more progress, the French delegation will find it necessary to reserve certain advantages for the sovereign State, and Belgium will be induced to claim the same right. The honorable delegate wishes to offer a few remarks in regard to the manufacture and consumption of sugar in Belgium.

It appears from the tabular statement laid before the conference that the total quantity of raw and refined sugar exported, notably for the year 1897, exceeds the aggregate of the quantities produced and imported. This makes the situation hard to explain. It would be necessary to conclude from these data that no sugar is consumed in Belgium. Mr. Sebline believes he is correct when he asserts that the consumption amounts at least to 15 kilos for each inhabitant; that is to say, to 90,000,000 kilos for the whole country, and, since exportation amounted to 236,000,000, it follows that the quantities produced and imported should be 326,000,000 and not 222,000,000, as shown in the above-mentioned statement.

The exportation of Belgium, taken together with its production, is therefore vastly more important than that of France.

The president is convinced that Mr. Sebline remarkably exaggerates the amount of consumption of sugar in Belgium. The latter is estimated to be not much more than 45,000,000 kilos. He would be happy to be able to say that it reaches the figure, 90,000,000, cited by the honorable delegate of France. The Government of Belgium directs its best efforts to expanding it as much as possible, and it will not be its fault if it does not arrive at such a figure.

Mr. Sebline replies that in France the consumption is 14½ kilos for each inhabitant. Now, in one-half of the country there is but little consumption of warm drinks, while in Belgium the use of tea and coffee must be rather general. The per capita consumption is surely as large as in France, the duty is lighter, and there is a rather important difference of price between the two countries. Moreover, it is well known that Belgian legislation confers great advantages upon the sugar industry.

The president observes that this discussion offers, as concerning Belgium, but a purely theoretical interest in the light of the declarations which he has made regarding the transformation of the now existing system of taxation. Belgium is ready to sacrifice her legislation and to renounce any kind of bounty, provided, of course, that an agreement shall be reached in that respect with the other countries represented.

He states that while a discrepancy seems to exist between the figures of Belgian production and importation on the one hand and those of exportation on the other, it is because in Belgium, as in France, there existed, during the year cited by the honorable delegate of France, remaining stocks from previous seasons.

It may be asserted that in a year of average richness of the beet the quantity of sugars free from duties does not exceed 10 per cent, at least since the raising of the "prise en charge" effected last year.

Mr. Kebers, delegate of Belgium, observes that if, as stated by Mr. Sebline, the exportation of Belgian sugars in 1897 exceeded the aggregate of quantities produced by and imported into Belgium, it was because there remained a considerable stock of sugar from the previous season and notably that of 1896; a similar occurrence took place in France. As can be seen in the statement of the notice relative to Belgian legislation, the production and importation in 1896 amounted to 244,000,000 kilos, while exportation only aggregated 180,000,000 kilos whence a difference of 64,000,000 kilos. It was a large part of that stock which was exported during 1897.

His Excellency the Honorable Sir Francis Plunkett, delegate of Great Britain, would like to draw the attention of Mr. Sebline to the particular tabular statement furnished by the British Government which gives the total of quantities of refined sugar imported from European countries where beet root is grown. It is found therein that Germany shipped to Great Britain in 1897 ten million hundredweight of refined sugar and France three million, while Belgium and the Netherlands together only shipped about two million five hundred thousand. France therefore occupies the second place among importing countries. Her export to England is therefore more important than was given us to understand by the first French delegate.

Mr. Delatour, delegate of France, recalls that Mr. Sebline has already

observed that the year 1897, during which exports doubled in consequence of the establishment of export bounties, which bounties the French delegation is ready to sacrifice to the conference, was to be excepted. But in 1896 and 1895 France only ranked after the Netherlands. The great influence exerted upon exports by export bounties, as evidenced by the figures of 1897, emphasizes the importance of the sacrifice made by France in declaring her readiness to forego export bounties.

His Excellency the Honorable Sir Francis Plunkett observes that during the years 1899 to 1901 the importations of refined sugars from France into England have largely exceeded the aggregate importations from the Netherlands, Belgium, and other European countries, except Germany.

Mr. Sebline answers that at the time under consideration France imported into England about 2,000,000 hundredweight, while the average importation from Germany was 5,000,000. In 1896 the importation from France had fallen to about 1,500,000, while that from Germany reached 10,000,000. It is, then, not the exportation from France that is proving a burden to English refining interests.

He adds that the German and Austro-Hungarian legislations offer inducements for the production and exportation of refined sugar. Their tendency is that sugar will not leave the producing country except in the most finished shape.

The tendency of French legislation is different. The figures quoted in the course of this debate will afford sufficient evidence thereof.

His Excellency the Honorable Sir Francis Plunkett having again mentioned in this connection the high figure of French exportation of refined sugar in 1897, Mr. Sebline recalls that this figure is the consequence of the establishment of direct bounty. He believes that he can assert that under the influence of this bounty exportations from France would undoubtedly not be long in offsetting those from Germany and Austria-Hungary; but France is not inclined to incite overproduction; she only asks that what is lawfully coming to her be not taken away from her.

The president believes that the exchange of views concerning the comparative exports of raw and refined sugars will have brought out the great importance of an agreement being reached by the conference upon the question of yield on refining.

Mr. Raffalovich, delegate of Russia, observes that the tabular statement referred to in the course of the sitting by the first delegate from Great Britain mentions quantities, small to be sure, of "refined sugar" which are said to have been imported into England by Russia. He calls attention to the fact that Russia does not send refined sugar to the London market; sugar of that kind is shipped to Finland and chiefly to Asiatic countries. The sugar exported to England is "sand sugar," not refined sugar.

Mr. Stcheniovsky, delegate of Russia, explains that "sand sugar" is understood to be that which is produced directly in the beet-sugar factories and has undergone no refining process. The richness of that sugar is 99½ per cent.

Mr. de Smet, delegate of Belgium, adds that that sugar corresponds to that known in Belgium under the names of "crystallized sugar" or "factory white powders."

The president believes that he is in accord with the assembly in

declaring that if No. 1 of the programme is interpreted to mean that it exclusively implies, on the one hand, the principle of the suppression of bounties, and, on the other, the main lines of modification applicable to legislation taken as a whole, the conference may, without objection, enter upon its examination. Reservations, moreover, may be presented when the question of special legislation shall come up.

A committee might forthwith look closer into this matter. This examination might evolve certain general principles applicable to legislations as a whole.

The president wishes to state that No. 1 of the programme has been mitigated by letter C of No. 2, thus worded:

"Indications of the mitigations and provisional dispositions to be authorized, if need be, by reason of exceptional conditions."

It might be useful to combine the discussion of Nos. 1 and 2, which are closely connected together.

Mr. Sebline recalls that the French delegation has been instructed to reserve entirely the internal legislation of France, such as its results from the law of 1884. He asks that this reservation be made of record.

He adds that the law of 1884 has been reconsidered three times in the direction of lessening the advantages bestowed on French sugar making. It may be that further modifications will be brought into it in the future, but, in any event, France proposes to take sole charge of revision of this fundamental law. If the reservations made to that effect are entered in the record, the French delegation will be willing to proceed with the examination of all the points on the programme.

The president directs that these reservations of the first delegate of France be entered on the record.

His Excellency the Honorable Sir Francis Plunkett, delegate of Great Britain, reads the following declaration:

"I shall take the liberty of drawing the attention of the conference to the correspondence which has just been distributed to us in regard to the programme.

"Baron Whettnall, in his note of February 17, 1898, to Lord Salisbury, says:

"'Such points as would seem to be connected with the question, and notably those indicated in the dispatch of your lordship under date of the 10th of this month, shall not be excluded from the deliberations of the conference as being foreign to its programme.'

"Lord Salisbury asked in that dispatch 'whether the object of the conference would include the suppression of internal bounties for the production of beet and beet sugar.'

"It is under this assurance that Great Britain accepted the invitation to this conference.

"We are aware of the difficulties that may supervene in this regard in certain countries—and we are quite ready to take them into account—but it seems to us that in order to bring our labors to a successful conclusion, it would be better to examine the question at least to the point of determining whether bounties granted to production are really applied for the purpose of operating as export bounties."

The president directs that this declaration be made of record, and states that the reservations presented by the first delegate of Great Britain do not preclude the conference from passing immediately upon the draft of the programme that has been laid before it.

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The conference accedes to this view. The draft of programme is nsidered to have been accepted; it will be the basis for the discus-on that will be opened in the next sitting.

That sitting is fixed for Tuesday, June 14, 3 o'clock.

The sitting is adjourned at noon.

The president: P. DE SMET DE NAEYER.

The secretaries: J. JANSSENS,
J. BRUNET.

PROCÈS VERBAL OF THE FOURTH SITTING.

TUESDAY, *June 14, 1898.*

Mr. de Smet de Naeyer in the chair.

The sitting is opened at 3 o'clock.

All the delegates are present.

The procès verbaux of the second and third sittings are approved.

The conference resumes the examination of the programme that has en taken as a basis of its deliberations.

His Excellency Count Khevenhuller Metsch, delegate of Austria-ngary, reads the following declaration:

"The Governments of Austria and Hungary have the honor of awing the attention of the conference to the following fact:

"At the time when the conference of London met in 1887, which nference also had for its object the abolition of bounties, no sugar-porting State in Europe had a direct bounty, but all without excep-n protected their sugar industry by means of indirect bounties.

"The London conference was barren of any result, and the principles ere expounded did not prevail.

"It was only then that the Austrian and Hungarian Governments re led, on the occasion of the change of sugar laws, to introduce a stem of direct export bounties.

"This form of direct bounties and licenses was advisedly selected by two Governments with the firm conviction that the sum total of vantages conceded to their sugar industry would be notably reduced reby, and that the value of the concessions granted under former islation was vastly greater than that which would come out of the v system.

"The correctness of this judgment was confirmed by the fact that as ly as the first season of the régime of the law of 1888 the net pro-ds of the taxation borne by the sugar industry had nearly doubled hout raising the basic unity.

"We believe that Germany and the Netherlands must have experi-ed similar effects from the change in their respective legislations.

"There results therefrom without any doubt that it is feasible to ly export bounties to the sugar industry in different ways, and we of opinion that such is the practice. The form under which these antages are conferred plays but a very secondary part, while the rregate amount alone is decisive when it is a question of competi-n on the markets of the world with your neighbors on both hands.

"The aim of the present conference is to abolish bounties granted sugar.

"The Governments which we have the honor to represent here

are of opinion that this aim can only be efficiently attained by means which would offer actual and complete guaranties that the systems applied in the territory of the contracting countries will include no bounty, whether for manufacture or export, of any nature whatsoever."

The president directs that this declaration may be made of record.

His Excellency Count d'Alvensleben, delegate of Germany, reads the following declaration:

"In the three sittings of the conference which have been held to date, some delegates have referred to the purport ascribed by their governments to their acceptance of the Belgian Government's invitation. The German delegates have derived therefrom the conviction that the several governments do not apprehend the object of the invitation in the same manner.

"The Belgian Government having designated as the object of the conference 'the suppression of sugar export bounties,' the German Government thought that it was to understand that the question should be to suppress at least all such premiums as are either exclusively granted to exported sugar or as are equally paid to sugar that is exported and that is destined for home consumption.

"Consequently, any favor granted to sugar by the state, either through cash payments or through the methods of collecting and returning the duty, would be considered to be an export bounty. In the same class must be placed the advantages granted to sugars when exported, as in Germany, Austria-Hungary, France (law of 1897), as well as those granted to sugars through cash payments or through deducting from the amount of taxes due a certain sum determined by law, as in the Netherlands. There should also be put in that class such advantages as result from the provision that a portion of the manufactured sugars pay no tax, as in Belgium, or a reduced tax, as in France (law of 1884), while all sugars when exported are allowed to be deducted from the account in the same measure as sugar that has paid the total of the regular duty.

"There remains open the question of knowing whether there are still other means of fostering by means of legislation, as, for example, in Russia, the exportation of sugar and working the same effect as by export bounties.

"Some of the declarations that have been heard by the conference are in direct opposition to the point of view that the German delegates have just presented, and it can hardly be denied that the end contemplated, no doubt, by most of the countries represented at the conference seems to be seriously compromised.

"Nevertheless the German delegates will readily consent to a continuance of the discussions."

The president directs that this declaration be recorded.

Mr. Kühn, delegate of Germany, asks to be allowed to offer a few remarks in respect of the statistical data adverted to in the last sitting by the first delegate of France concerning the exportation of German sugars.

He recalls that in that sitting Mr. Sebline, mentioning the large quantities of refined sugar that are said to be exported from Germany into England, estimated that exportation to reach a total of more than 1,000,000 tons for the season 1896–97.

This figure is much too high. According to the statistics of Great Britain, which make no distinction between German and Austrian

sugars, the importation of refined sugar from Germany into England in 1896 amounted to 10,000,000 hundredweight, equivalent to 500,000 tons, and according to German statistics, in fact, the export of refined sugar from Germany to England has not even been more than about 300,000 tons in 1896–97.

The first delegate of France then endeavored to demonstrate that the increase of French export of sugar during the last year was chiefly due to the bounty premium established by the law of 1897, and that if that bounty was suppressed the French export would be brought down to the regular figure of previous years. Mr. Kühn believes that in so reasoning Mr. Sebline did not take into account that if the other countries should forego their bounties, which are as high as or even higher than those of France at the same time, the situation of French industry would be hardly less favorable than now, and that in consequence there would be no occasion to reckon upon a decreased exportation.

Mr. Sebline, delegate of France, states that the figures quoted by him were taken from the tabular statistical statements furnished by the British Government. He adds that he had ascribed to the word "quintal," originally used in the said statements, the value of the metrical quintal—that is, 100 kilos.

Sir Henry Bergne, delegate of Great Britain, answers that the unit that was taken as a basis for these statements is the hundredweight, which is equal to about 50 kilos. In order to avoid any confusion in the future the word hundredweight (cwt.) has been substituted for quintal.

Mr. Sebline deduces from the explanation given by the honorable delegate from Great Britain that the figures that he had mentioned should be reduced by one-half.

He adds that the ratio between the German and French exports of refined sugar to England remains, nevertheless, the same; hence the demonstration made by him in the last sitting has lost none of its weight, and it is still permissible to assert that France takes but a very small share of the importations of refined sugar into England, and that the charge of casting disturbance into the English refining industry should not be laid at her door.

Mr. Sebline then replies to the second remark offered by Mr. Kühn, according to which the suppression of direct bounty in France would not prevent, if the same suppression took place in the other countries, the French exporting trade from maintaining the importance acquired in 1897 under the influence of that bounty. He thinks he has demonstrated that as long as France did not enjoy direct bounty her export could not grow. It is because the indirect advantages accorded by the law are little profitable to manufacturers, while the latter are almost the only ones to receive any benefit from the direct bounty.

The nations which have succeeded in considerably developing their sugar exportation, such as Germany and Austria-Hungary, substitute direct export bounties for internal advantages because they are much less burdensome to the revenue.

Direct bounty operates by raising in the bounty-paying country the price of sugar for an equal amount. Thus, for instance, if 100 kilos of German sugar be sold at Hamburg for the English market there is received the price of the English market, to which is added the bounty of 4 francs granted by the Government. If the sale is for home consumption, the English price increased by the amount of the premium

which would have been received on exportation is obtained. A direct bounty, therefore, exerts the same influence, from the standpoint of the interest of the manufacturer, on all the sugar produced, whether it be exported or consumed in the country.

The honorable delegate of France states that the suppression of direct bounties in France, Germany, and Austria-Hungary would constitute of itself a serious reform in sugar legislation, since it would carry the relinquishment of advantages amounting to 132,000,000 francs for the three countries; in fact, Germany produces 1,800,000,000 kilos; Austria-Hungary, 800,000,000, and France, 700,000,000—say, together, a production of 3,300,000,000 kilos, which, at the rate of 4 francs per hundred kilos bounty, gives a total of 132,000,000 francs that has just been quoted.

Mr. Kühn takes the liberty of again drawing the attention of the conference to the fact that the quantities entered against Germany in the English statistics as regards the importation of refined sugar in England really include the sugar exported by both Germany and Austria-Hungary. The sugar from the latter country is shipped in German ports, and the British customs consider them all as having come from Germany.

Mr. Sebline states that the comparison he previously drew between the importations of France and Germany into England must, in consequence, be considered as applying to the importations from France on the one hand and to those of Germany and Austria-Hungary combined on the other.

Mr. Raffalovich, delegate of Russia, reserves the right of offering at a later time such remarks as he may see fit to make in consequence of the statements made at the opening of the sitting by the delegations of Germany and Austria-Hungary.

The president states that Mr. Sebline has raised the question, which will be entitled to an exhaustive investigation in committee; the influence exerted on the quotations by direct bounties on the one hand, and by indirect bounties on the other hand.

He observes that quotations on the English market are directly influenced by the bounty; by the operation of such bounty offers are made to English purchasers at prices less than those prevailing on the home market.

Mr. Sebline admits that in the long run bounties cause lower prices; but if the two countries are compared, the one granting a bounty, the other not so doing, the situation is just such as he has described it. A direct bounty causes, in the country where it is enjoyed, the price of sugar to come up to the level of that prevailing on the English market with the amount of the bounty added. It therefore benefits at once the exported sugar and the sugar consumed at home, and it may be said that all of the sugar produced receives the same proportion of advantage. Indirect bounties do not work the same effect.

The president states that direct and indirect bounties may operate in a different manner. It is in order to inquire more closely into their influence that it would seem proper to submit the question to the investigation of a special committee.

The president reads No. 2 of the programme, worded as follows:

(2.) "Conditions which the countries concerned would put upon their renouncing the bounties, if they so renounced them:

"(*a*) Determination of the countries which should of necessity par-

ticipate in the agreement in order to make the latter efficient and feasible:

"(*b*) Recital of the measures which the Associated States would have the faculty or intention of taking toward the nonparticipating countries that would maintain bounties.

"(*c*) Indications of the mitigations and provisional dispositions to be authorized, if need be, by reason of exceptional conditions."

"(*d*) Other terms."

The president does not believe that the conference is prepared to reach an immediate decision in regard to letter (*a*). On the other hand, it seems to him that an examination of letter (*b*) might be profitably entered into.

His excellency Count Gyldenstolpe, delegate of Sweden, is of opinion that it will be necessary first to determine what is meant by "export bounties." He joins in the interpretation set forth in the declaration that was read at the opening of the sitting by the first delegate of Germany.

His excellency the Jonkheer de Pistels refers to the declaration he made in the name of the Dutch delegation at the second sitting; on expressing its desire that the suppression of the bounties shall be effected, the delegation had in view all bounties that are of such a nature as to favor sugar on outside markets.

Mr. Sebline observes that these declarations do not seem to be responsive to the question put to the conference. They tend to offer the very definition of the bounty, but they say nothing as to the measures that would be taken toward the countries which might not renounce the bounty system. The honorable delegate would be happy to receive some information on this point.

The president admits that the point is well taken. He observes, however, that those declarations are connected with those previously made, and that it had been agreed that the discussion in the present sitting would proceed on No. 1 of the programme.

Reverting to letter B of No. 2, he states that the question therein contemplated is closely connected with the clause known as the "most favored nation treatment," inserted in most commercial treaties.

The question may be asked how may this clause be interpreted? It may be considered whether it would not be proper to precisely determine or limit its purport by means of special arrangements, or whether there would not be occasion, at the very least, for the associated States to agree upon the insertion in commercial treaties, at the time of their renewal, of a provision permitting of the principle of the countervailing duty, so far at least as sugar is concerned.

In regard to the interpretation of the clause itself, the question may be asked whether it goes as far as creating in favor of the signatory States the right of imposing upon the other contracting parties conditions of economical struggle entirely different from those inscribed in the legislation by which their internal régime is regulated. Can this clause impair the right of each country to guarantee on its markets equal conditions for all who repair thereto, and can it depend on the legislation of such countries to infringe upon the situation secured by other nations to other States to which they had purposed to guarantee in an efficient manner the treatment of the most favored nation?

An exchange of views on this point would not be without interest.

If the most favored nation clause did not permit, as it now stands, to

reach the desired end, it would be well to seek what formula should be substituted for it.

Mr. Raffalovich, delegate of Russia, expressing an entirely personal opinion, does not believe it possible to establish all at once and without preliminary negotiations differential duties which would be looked upon as constituting a derogation to the most favored nation clause. Great prudence, at any rate, would be necessary to avoid complications in the matter of customs.

The president believes it indispensable that consideration be given to such measures as should be taken in regard to the States which would continue to allow bounties in the event of the conference arriving at an agreement.

The work of the conference would be incomplete if the associated States did not come to an agreement upon the adoption of the clause authorizing the establishing of countervailing duties. Without a provision of this kind the evil would merely be shifted, the struggle between the contracting States would cease, but would spring up between those and the States that would not be parties to the arrangement.

Is it not advisable to inquire what means would be properly resorted to in order to achieve the contemplated object?

Mr. Sebline, delegate of France, says that the question of the interpretation to be put on the most favored nation clause seems to him to be beyond the jurisdiction of the conference; it is a question of international law, the discussion of which would be jealously guarded by each State.

The honorable delegate therefore does not believe that the conference is authorized to express an opinion on this point. Even though a solution should be reached unanimously by the conference such a solution would lack authority. Each State will insist upon reserving to itself as part of its sovereignty the right of determining the question.

As to the question of measures to be taken toward States that should not adhere to the result of the conference's labors, the solution is fraught with positive difficulties. The conference seems to agree on acknowledging the right of the nations represented to reserve their home markets for themselves. Among those nations all, with the exception of one, Sweden, produce enough sugar to supply their own markets.

The sanction would be void as from nation to nation, unless it be on the part of England. The question then may be brought down to this:

Can it be supposed that England will establish differential duties? The honorable delegate believes that Great Britain could not establish differential taxes against a nation that would be entitled to the most favored nation treatment without previous negotiations, or without terminating the instruments by which such treatment should be guaranteed to other parties.

Can it be hoped, moreover, that England would take a measure so little consonant with the principles of her own legislation in the interest of the decisions of the conference? If she entered upon that path she would be guided wholly by the care of her own interest.

The question is then one that is very difficult to solve.

The conference can not appeal to England for stringent measures, and yet the only effective sanction is in the hands of that country.

The president is of opinion that Mr. Sebline has somewhat narrowed the scope of the debate by advancing the supposition that England alone is liable to derive a profit from the right which the associated States would reserve to themselves of compensating by means of a sur-tax the export bounties which would continue to be paid. Belgium, for instance, only levies a trifling protective duty (4 francs 50 centimes per 100 kilos). If a nonadhering country should grant a somewhat high bounty, the effect of this protective duty will be annulled. Those countries which do not protect their markets by high duties would therefore be injured, in their interests, by the bounties allowed by States not in the association; hence it is inaccurate to say that England alone is interested in the question. It is permissible to add that should an arrangement be reached by the conference, the adhesion of other countries, which as mere consumers are in the same situation as England, would be surely obtained.

Mr. Sebline doubts that there could be any practical interest for Belgium in the establishment of countervailing duties.

The president answers that, next to Belgium, the example of the Netherlands, which, although producers, do not protect their market by any surtax, may be cited.

Mr. Sebline points out that if sugar is imported in a producing country it can be only so introduced for consumption in the country or reexportation to England. The contemplated hypothesis will thus not take place.

The president observes that the question is only to ascertain whether it should be proper that the legality of the right for the associated countries to defend themselves against the effects of export bounties granted by nonadhering states be recognized in the eventual agreement. It is understood that each country would decide for itself the point of knowing whether and to what extent it would see fit to avail itself of that right.

Mr. Sebline answers that the right is not in doubt. It can only be disputed by such countries as enjoy the most favored nation treatment.

Practically there is but one nation among those represented at the conference—England—on whom depends the solution of this question, and it does not seem very likely that she will be disposed to assume forthwith an attitude on this point.

His excellency the Honorable Sir Francis Plunkett declares that the British delegation must withhold any answer on this subject until it is acquainted with the results of the labors of the conference.

The president states that the declaration of the honorable delegate of Great Britain is tantamount to a motion for postponement.

He suggests in consequence that the examination of the question may be carried over to follow the order of the day.

This motion is carried.

The conference decides to temporarily withhold, as being intimately connected with the definition of export bounties, letter C, of No. 3, worded as follows:

"Indications of the mitigations and provisional dispositions to be authorized, if need be, by reason of exceptional conditions."

The assembly enters upon examination of No. 3, worded as follows:

"Obligations to be assumed by the contracting parties during the existence of the agreement to be concluded (yield on refining, surtaxes, etc.)."

The president observes that if an agreement is reached in regard to the abolition of the bounties it will be no less necessary to come to an understanding on the question of the yield in refining. It is indeed important that the operation of refining may not be effected in different countries under unequal fiscal conditions, else the abolished bounties could be indirectly reestablished for refined sugar.

He suggests that a committee, to consist preferably of technicians and which would examine the question of the yield in refining and such other technical questions, the importance of which would become apparent in the course of the discussion, be organized.

It would be understood that all delegates would be authorized to keep informed of the labors of that committee; the latter would file a report upon the conclusions of which the conference would subsequently pass.

His Excellency Count d'Alvensleben says that the German delegation indorses this proposition.

Mr. Sebline observes that France, who applies the "exercice" system, does not grant any bounty for refining; however, the French delegation is quite ready to designate one of its members for one of the committee to the end of supplying it with desirable information. In the presence of the reservations heretofore formulated by the French delegation, the honorable delegate might have asked that it be not represented on the committee; but as it is a question of a committee of investigation and information, he makes no objection to a French delegate participating in its labors.

The president is happy to state that one of the members of the French delegation will be on the committee.

The other delegations having joined in the proposition of the president, it is resolved that the committee will be organized at the close of the sitting.

It is understood that the technicians that are assisting certain delegations and take no part in the debates of the conference will be allowed to participate in the labors of the committee as advisers. The conference resolves to withhold examination of the points contemplated in Nos. 4, 5, and 6 of the programme, worded as follows:

"4. Procedure to be followed in order to settle questions of enforcement or interpretation which might arise among associated States.

"5. Date for the enforcement of the agreement and duration of the understanding.

"6. Conditions under which accessions of other States to the agreement could be effected."

The president suggests that the question of knowing what is meant by bounty, as well as mitigations and provisional dispositions to be authorized, if need be, by exceptional conditions (Letter C of No. 2), be examined in committee. These two questions are closely connected.

He observes that no agreement has yet been reached in regard to the definition of bounty. An understanding in that respect would no doubt be facilitated if an examination of the peculiar situation of each State should be entered into at the same time, such examination being a necessary consequence of Letter C in No. 2.

Before discussing them in full session it would be well to exchange views in committee on these essentially important points.

Mr. Raffalovich can not agree to discussing the question of the definition of the bounty otherwise than in full session.

The president does not propose to set aside a discussion in full ses-

sion, but it seems to him that it would be preferable to have it previously examined in committee.

All the reservations which have been formulated have been made of record; therefore a simple exchange of views in committee can in no way infringe upon the freedom of such delegations as would participate therein.

Mr. Sebline makes no objection to the organization of the committee which would be charged with the examination of the two points indicated, but he desires that the French delegation be not represented thereon; by cooperating in this examination it would place itself in contradiction of its earlier declaration. There will be a report of the labors of the committee and the delegation will be enabled to discuss the conclusions of the report in full session.

The president is of opinion that a participation in the discussion of the two points indicated should in no way be incompatible with the reservations formulated by the French delegation.

Mr. Bousquet, delegate of France, observes that the instructions of the French delegation limit what the latter is to understand as the meaning of the word bounty. There is, in the opinion of the French delegates, no other bounty than that which results from the law of 1897, hence the delegation could not be authorized to participate in the labors of a committee whose duty it would be to inquire whether there is no other bounty.

Mr. Sebline says that this abstention will in no wise hinder or hamper the labors of the committee. The conference is aware of the French legislation and the committee will be able to examine without the cooperation of the delegation. The latter asks to be allowed not to cooperate in such labors only in order not to bind itself in this respect.

The president supposes that the objections of the French delegation are not directed to letter C of No. 2.

Mr. Sebline states that the French delegation does not shun discussion; it reserves to itself the right to take a part therein in full session; it only asks that the committee be organized without it.

On the motion of the president, the conference resolves to postpone to the next sitting its decision in regard to committing the two points under consideration.

His Excellency the Honorable Sir Francis Plunkett asks to be allowed to determine precisely the purport of the reservations which he made in regard to provisions that might eventually become expedient toward countries which should continue to pay bounty.

The British delegation must reserve its attitude on this point.

It can not at this time foresee which are the powers that will participate in the anticipated agreement, nor what the decisions of the conference will be. It can not therefore form an opinion concerning the results that these decisions may have from the standpoint of economical conditions in England or of the treaties that bind her with other States.

The president directs that this declaration be recorded.

The committee charged with the examination of the question of the yield on refining is then organized.

The following gentlemen are designated to be members of this committee:

For Germany: Mr. Kühn.

For Austria-Hungary: Count Khevenhuller Metsch, assisted by

Mr. Meissl, ministerial counselor at the imperial and royal ministry of agriculture, and Mr. J. Deutsch de Hatvan, assistant delegates from Austria-Hungary.

For Belgium: Mr. de Smet, assisted by Mr. V. Beauduin, manufacturer, and Mr. J. Janssens, director at the ministry of finance.

For Spain: Mr. J. B. Sitges y Grifoll.

For France: Mr. Dechaud.

For Great Britain: Mr. Ozanne, assisted by Mr. Nevile Lubbock and Mr. George Martineau, technical advisers of the British delegation.

For the Netherlands: Mr. van Rossum.

For Russia: Mr. Stchenovsky.

For Sweden: Mr. Tranchell.

It is resolved that the committee will meet on Wednesday, June 15, at 10 o'clock.

The next full session is fixed for Friday, June 17, at 10 o'clock.

The sitting is adjourned at 4.30.

The president:

P. SMET DE NAEYER.

The secretaries:

J. JANSSENS.
J. BRUNET.

PROCÉS VERBAL OF THE FIFTH SITTING.

SATURDAY, *June 18, 1898.*

Mr. De Smet de Naeyer in the chair.

The sitting is opened at 10 o'clock.

All the delegates are present.

The procés verbal of the fourth sitting is approved.

Mr. Raffalovich, delegate of Russia, takes the floor and makes the following statement to the assembly:

"Following the declarations made by the delegates of countries here represented, I venture to lay a few remarks before the conference.

"The Russian Government transmitted to the Belgian Government a note as its contribution to the comparative statement of European legislation concerning sugar. The members of the conference may have found therein, notably in the résumé at the end of that note, an affirmation that Russia does not pay bounty to exported sugar and only returns the collected tax.

"It would be of great importance to our sugar industry to have the export bounties on sugar paid by such countries as grant them abolished. If the abolition could not be made immediately after the 1st of September, 1899, a gradual reduction would be looked upon as a comparatively satisfactory measure likely to improve the market prices on the markets of the world and to diminish the losses sustained by our manufactures when they sell abroad.

"It is proper to bear in mind that various circumstances, some of a climatic nature, others arising from economical legislation (irregular crops, smaller yield by the hectare by reason of droughts, early frost, pernicious insects, high cost of fuel, advance in the price of machinery), have their influence on the cost price in Russia. On the other hand, our competitors nearer to the markets of London find themselves,

without regard to the bounties granted by their respective legislations, in better condition for the disposal in England of their surplus products.

"If the internal system in force in Russia be examined with an impartial mind and without preconceived theoretical prejudice, it will be readily admitted that no bounty is allowed to exportations.

"Following upon a crisis brought about by a production perceptibly greater than the consumption in 1884–85,[1] a commission consisting of the leading representatives of the industry was delegated by sugar manufacturers to call upon the minister of finance. Various modes were proposed, and that which was selected and adopted to raise the prices was the export bounty. After examining the project the committee of ministers did grant, by its decision of July 12, 1885, an export bounty of a ruble per pood (1.35 cents per pound)[2] upon a quantity of 2,000,000 poods (72,200,000 pounds) that could be exported until January 1, 1886. The excise duty that was returned upon exportation was then 65 kopecks (31.7 cents per pood of 36.1 pounds; 0.88 cent per pound). As there was no rise in the market price of sugar, the manufacturers requested an extension of time for exportation. It was granted until the 1st of May for a limited quantity, but with a premium of only 80 kopecks (37.7 cents) instead of a ruble (47.1 cents) per pood (36.1 pounds; 1.04 cents per pound), the excise duty being returned as in the first instance. Later on, and for the same reason, it was permitted until the 1st of July, 1886. The advance made by the treasury was to be reimbursed within four years in the shape of a surtax, payable with the excise duty by all the producers whether they had profited by the premium or bounty or not.[3] At the same time as a system of export bounty came into operation the Government gave public notice that the customs duties would be 1 ruble 50 kopecks gold[4] per pood (2.93 cents per pound) when the price of sugar at Kieff should vary between 5 rubles 50 kopecks and 6 rubles (7.18 and 7.83 cents per pound).

"Thus the consumers were given a compensation by a reduction of the duties. The treasury made an advance in the shape of bounty of 6,780,000 rubles—$3,254,000, at the rate of 48 cents per ruble, the average rate for the years 1885–86—which were reimbursed to the Government. Notwithstanding these measures the market was not yet relieved, and a new commission set off for St. Petersburg. It made an urgent request for an export bounty not reimbursable, or reimbursable in part only, as well as for the postponement of the increase of 20 copecks (0.3 cents per pound) on the excise duty which was to come into force from the beginning of the season 1886–87. This time the Government peremptorily refused both the postponement of the increase in the excise duty, the treasury being in need of money, and the nonreimbursable export bounty, as the minister of finance could not consent to lay a tax upon Russian consumers for the benefit of foreign consumers. Meeting such a categorical refusal, the manufacturers, in order to remedy the continuous fall in prices, devised the system of the "Normirofka," that is to say, the limitation and regulation of production for home consumption. Each factory

[1] From the 1st of May, 1884, to the 1st of May, 1891, there was an export bounty on sugar exported to Asia, said bounty not reimbursable.

[2] Average value of the ruble for 1885, 48.8 cents; 1886, 47.1 cents.

[3] The quantity of sugar actually produced is less than the estimated figure.

[4] Value of gold ruble, 77.2 cents.

was regulated upon the average of its production in the last five years; the surplus had to be exported.

"But as this understanding was not compulsory, some of the factories kept out of the syndicate and new factories were erected. The production increased, prices again fell, and a number of manufacturers, parties to the convention, ignored their obligations. The market price having fallen below the cost of production, it seemed that the crisis could not be avoided. New delegates were sent to St. Petersburg by the sugar-manufacturing interests, and various schemes were laid before the minister of finance. The Government, apprehending a serious crisis, took hold of the interests of the sugar manufacturers; it had also to make sure of the collection of the 50,000,000 rubles (about $25,000,000) of excise duty.

"The minister of finance submitted the projet of a law prepared in his department, and it was put in force for three years on the 20th of November, 1895. This law has just been extended without limitation of time, with some slight changes.

"The tax is collected in the factories and on the actual weight of sugar there produced. In case of exportation the tax is reimbursed in the shape of receipts that can be used in payment of the excise duty according to the actual weight of the quantities of sugar for exportation. Thus our sugar can not profit by a disguised bounty—a point which, besides, has been acknowledged by the sugar conference held at London in 1888.

"Upon examination of the measures taken by our Government in pursuance of the law of November 20, 1895, it will be found that its provisions do not allow any bounty to sugars exported abroad.

"According to the system now in force, the production of each factory is regulated in the following manner: Out of the output 60,000 poods (2,167,000 pounds) are immediately placed upon the home market; over and above the 60,000 poods (2,167,000 pounds) the production is divided into three classes: First, quantity destined for the home market; second, in the fixed compulsory reserve; third, in the reserve available for exportation with reimbursement of the tax.[1]

"Every year the minister of finance fixes, in the month of September, in approximate figures this distribution, and in the month of May, when the total output is exactly known, he fixes it definitely. At the same time the Government determines the prices, in view of the consumers' interest. The first year it had allowed 4 rubles 75 copecks[2] for the winter months (6.79 cents per pound), five rubles (7.13 cents per pound) for the summer months; the second year, 4 rubles 65 copecks (6.63 cents per pound) for the winter months, 4 rubles 90 copecks (7 cents per pound) for the summer months; the third year, 4 rubles 60 copecks (6.56 cents per pound) and 4 rubles 80 copecks (6.85 cents per pound), respectively. In the last three years there has been a fall of 15 and 20 copecks per pood (0.21 and 0.28 cent per pound); that is to say, 2 francs 50 centimes and 3 francs 25 centimes per 100 kilos.

"The produced sugar is kept in the storehouses of the factories under the supervision of revenue officers. The exportable reserve can not be admitted to home consumption except by paying an additional excise duty.

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[1] 18,000,000 poods, more or less, were consumed.

[2] Russian rubles reduced to dollars at the rate of 51.5 cents per ruble.

"When the prices at home become higher than those fixed by the minister of finance, a ministerial circular orders that more or less quantities be taken from the compulsory reserve for the home market.

"In the statement which accompanied the law recently introduced into the imperial council we find that the minister of finance proposes to constantly decrease the maximum price of sugar in Russia for the future and to increase the proportion of sugar which may be placed on the home market without paying the surtax.[1] The minister of finance also proposes to increase the compulsory reserves so as to be able to throw upon the Russian market a larger quantity of sugar and by this means succeed more rapidly, if need be, to bring about lower prices at home.

"Exportation varied from 2,000,000 to 7,000,000 pood (72,200,000 pounds to 252,700,000 pounds) in late years. In 1896 it amounted to 13,000,000 pood (469,300,000 pounds) in consequence of the change in legislation which caused the disposal of the stocks accumulated by the syndicate.

"Finland and Central Asia consume over 3,000,000 poods (108,300,000 pounds) annually. Russia has in Asia considerable openings to develop.

"Consumption advanced in a few years from 26,000,000 poods (938,600,000 pounds) to 33,000,000 poods (1,191,300,000 pounds).

"This increase of consumption finds an explanation in the stable and comparative low price on the home market, as well as in the extension of the railroad system and the introduction of monopoly in the sale of liquors.

"It seems that the intervention of the Government in fixing a price beyond which quotations for sugar could not go without bringing upon the home market the quantities in reserve does not by any means guarantee to the home manufacturer that that price will be reached.

"What the Russian Government is mostly after is stability, and I should wish to give evidence of its consistency of views.

"I have availed myself of the leisure we have between our sittings to read over the London proceedings.

"The Netherlands delegate, Mr. Pistorius, alluded to another kind of protection that the word bounties described but imperfectly. He meant to bring the debates of the conference to bear upon the advantage that exportation may derive from very high customs duty collected by a certain country. Mr. Kamensky, delegate of Russia, asked whether it was possible to raise in the conference questions involving intervention in the customs legislation of each country.

"You will see in a communication of Baron de Staal, Russian ambassador, under date of April 3, 1888, that the question of surtaxes raised by the delegate of The Netherlands can not be considered by the Imperial Government as implying a hindrance to the legislative freedom of each State in tariff matters.

"This, to use the words of the learned French historians on sugar legislation, Messrs. Boizard and Tardieu, was tantamount to rejecting, so far as Russia was concerned, the proposition of The Netherlands in the matter of surtaxes.

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[1] An important provision was inserted in the law. In the event of a rise in prices on the European markets, the consequence of which might be to induce Russian manufacturers to increase their output in an exaggerated degree, the minister of finance, with the consent of the council of ministers, is empowered to diminish or suppress for a period of time the refundment of the tax.

"I have concluded the statement which I wish to make. May I be permitted to ask whether the intention in directing the discussion to the tariff system of certain countries is a platonic and academic one? Has the possibility been contemplated of applying to countries which in the free use of their sovereign rights have fixed their customs tariffs in accordance with their national interests, a differential duty under the pretense that their tariff is too high and favors exportation? Would it be indiscreet to ask how this differential duty is to be computed? On what basis shall it be established? As the conditions of production vary according to the years, according to the crops, the ground, the cost of fuel, will the sliding scale be resorted to? These considerations can not be applied to Russia. While at a certain time a syndicate of producers was organized, circumstances have been changed by the law of 1895. The duty on imported sugar is part of the whole of our economical régime, for which we seek stability above all.

This declaration of Mr. Raffalovich is made of record.

The president announces that the committee charged with the examination of the question of the régime of refining factories has collected a number of notes relative to existing legislation in the various countries represented at the conference. These notes have been reproduced in a document distributed to the delegates.

The committee has drawn up the following report; in which the result of its deliberations is recorded:

"The committee charged by the conference with the duty of especially examining the questions of the fiscal supervision of sugar refineries in the various countries represented, convened on the 15th and 16th of June, 1898, at the ministry of foreign affairs.

"Were present:

"For Germany, Mr. Kühn.

"For Austria-Hungary, His Excellency Count Khevenhuller Metsch, assisted in behalf of Austria by Mr. Meissl, ministerial counsellor at the imperial and royal ministry of agriculture, and in behalf of Hungary, Mr. J. de Hatvany Deutsch.

"For Belgium, Mr. de Smet, assisted by Mr V. Beauduin, manufacturer, and Mr. Janessens, director at the ministry of finance.

"For Spain, Mr. J. B. Sitges y Grifoll.

"For France, Mr. Dechaud.

"For Great Britain, Mr. Ozanne, assisted by Messrs. Neville Lubbock, and George Martineau, technical advisers of the British delegation.

"For the Netherlands, Mr. van Rossum.

"For Russia, Mr. Stcheniovsky.

"For Sweden, Mr. Tranchell.

"Upon the motion of his excellency Count Khevenhuller Metsch, the committee organized, with the delegate of Belgium as chairman.

"The committee made a cursory examination of the laws concerning the taxation of refined sugar in the several States represented at the conference. It is of opinion, in pursuance of this examination, and the exchange of views, that in the present condition of the various legislations the refiners of sugar-exporting countries enjoy unequal advantages, but that it would not be impossible to establish, by means of international agreement, a sufficient equality among them.

"The committee, however, is of opinion that if the deliberations of

the conference should bring about such an agreement, the question of the fiscal supervision of refining factories should be inquired into more thoroughly.

"It also is of opinion that the conference should, in the same contingency, decide upon certain principles of general application bearing upon special points, notably that of the fiscal treatment of waste in refining as well as that of the duration of the credits determined for the payment of the taxes.

"Mr. Dechaud asks leave to recall that he has been designated to take part in the labors of the technical committee for the sole purpose of supplying it with information concerning the régime of French refineries. He could therefore not join in the views of this committee touching such revisions as could be applied to the legislation of other countries.

"The chairman directs that Mr. Dechaud's reservation be recorded.

"KÜHN.
"R. KHEVENHULLER.
"D. DE SMET.
"JUAN B. SITGES.
"DECHAUD.
"E. C. OZANNE.
"A. VAN ROSSUM.
"J. SZCHENIOWSKY.
"C. TRANCHELL."

It is decided to discuss the conclusions of this report at a later sitting.

The president recalls that he announced the intention to propose to commit the examination of the definition to be given to export bounties. He has also pointed out the close connection that exists between the definition of the bounty and letter B of No. 2 of the programme reading as follows:

"Recital of the measures which the associated states would have the faculty or intention of taking toward the nonparticipating countries that would maintain bounties."

He adds that it seemed useful to draw up a draft of a resolution to be taken as a basis for discussion.

This draft, a copy of which is handed to each one of the delegates, reads as follows:

"The conference, while reserving the question of mitigations and provisional disposition that may be authorized if need be by reason of exceptional situations, is of opinion that bounties whose abolition is desirable are understood to be all the advantages conceded to manufacturers and refiners by the fiscal legislation of the states and that directly or indirectly are borne by the public treasury.

"There should be classified as such notably:

"(*a*) The direct advantages granted in case of exportation.

"(*b*) The direct advantages granted to production.

"(*c*) The total or partial exemptions from taxation granted to a portion of the manufactured products.

"(*d*) The indirect advantages growing out of surplus or allowance in manufacturing effected beyond the legal estimates.

"(*e*) The profit that may be derived from an excessive drawback.

"In addition the conference is of opinion that advantages similar to

those resulting from the bounties hereinbefore defined may be derived from the disproportion between the rate of customs duties and that of consumption dues (surtaxes), especially when the public powers impose, incite, or encourage combinations among sugar producers.

"It would be desirable to regulate surtaxes in such manner as to confine their operation to the protection of home markets."

The president asks the assembly whether it would not be preferable, rather than to organize a committee composed of delegates especially designated for the purpose, to have the conference resolve itself into a committee of the whole, it being understood that there would be no procès verbal of the deliberations of the committee, but that its conclusions would be discussed in full session.

Baron d'Aulnis de Bourouill, delegate of the Netherlands, supports the proposition of taking the draft of resolution presented by the president for a basis of discussion; he joins in the motion that the conference resolve itself into a committee of the whole in order to examine this draft.

Mr. Delatour, delegate of France, after rapidly scanning over the draft of resolution that has just been distributed, expresses the opinion that the enumeration of bounties therein made does not include all the advantages of a nature to act upon the conditions of sugar exportations.

He also makes the same remark in regard to the enumeration embodied in the declaration made at the last sitting by his excellency the minister of Germany.

As a matter of fact, sugar exportation is favored by other privileges, by other bounties, than those enumerated in that declaration. In addition to the natural advantages that may accrue to the sugar industries of one or the other of the countries under consideration and are the result of the free action of physical, economical, or social powers, such as low cost of labor, the advancement acquired in consequence of the progress in beet cultivation or of the transformation of the equipment of factories, there are other advantages—favors—which depend on the action of the Government and may assume the most diverse forms.

Mr. Delatour does not see wherein such advantages differ, if the question is thoroughly looked into, from the indirect bounties for which certain legislations are reproached.

To take but one example, it seems obvious that a considerable lowering of transportation rates for sugars shipped to ports would constitute a mode of encouragement, an indirect bounty for the exportation of sugars. And still this would be a very alluring procedure, notably for countries where railroads are under the control of the State.

If, then, these bounties are not included in the category of indirect bounties that have been denounced by certain members of the conference, it is easy to foresee how long this so-called equalization of conditions that is sought for international competition will last.

Indeed, the conference is no sooner convened to look into the suppression of the bounties than it is announced, even before it be possible to foresee whether an arrangement will be arrived at, that in Germany the agriculturists are busying themselves with seeking what other advantages the State might concede for the purpose of promoting exportation—special rates for the transportation of sugar for exportation, revision of the freight rates on sugar beets, on fertilizers, etc.

Mr. Delatour concludes that it would be interesting to know the sentiment of the conference on the subject.

There is but one alternative. If the conference does not address itself to these advantages, it is not seen how it could follow up the suppression of the other indirect bounties, for the influence of these bounties on exportation may be less efficient.

If, on the contrary, it desired, in order to be consistent, to suppress or prevent them, it would be led to putting into an international convention the whole of the industrial, commercial, and fiscal legislation of the various producing countries, which is an impossibility.

The president, while admitting that the observations which have just been made are interesting, points out that before proceeding with the discussion it would be well for the assembly to decide whether it will sit in full session or in committee of the whole.

The conference decides in favor of the examination in committee. The full session is therefore interrupted.

The full session is resumed at 11.30. The conference proceeds with the examination commenced in the committee of the draft of resolution presented at the opening of the sitting by the president.

Mr. Sebline, delegate of France, declares that in the presence of the peremptory terms of the mission intrusted to the members of the French delegation, the latter were not qualified to participate to the discussion in committee of the proposition in question.

The honorable delegate does not question the possibility of defining the bounty, but he is convinced that very serious difficulties will be met when it will be attempted to determine precisely what are the advantages that are to be considered as constituting bounties. Thus it was claimed that the customs duties in France on foreign molasses were an indirect advantage granted to the sugar manufacturer. Now, nothing is farther from the truth.

It is to be observed, as a matter of fact, that there is not an atom of sugar extracted from molasses in France. All the French molasses are used for the manufacture of alcohol, and as alcohol pays a very high tax—156 francs per hectoliter—and as it brings into the treasury hundreds of millions, it is conceivable that France proposes to reserve the manufacture of alcohol by means of products of her territory. Hence the high customs duty imposed on foreign molasses with a view of preventing their coming into France. On the other hand, French refiners are inhibited from extracting sugar out of sirups produced in the course of refining.

Under these conditions how could the conference take an interest in the surtax on molasses, even though it be prohibitory?

The president points out that the last paragraph of the draft of resolution precisely reserves for each country the right to protect its home market; but the surtax should not be such as to have the same effect as an export bounty.

Since all the molasses produced in France is turned into alcohol, it is obvious that the provisions in the last two paragraphs are in no wise applicable to it.

Mr. Sebline is of opinion that under such conditions it will be easy to reach an understanding on this point.

Mr. Van Rossum, delegate of the Netherlands, observes that the high rate of duty collected on molasses on its importation into France enables that product to be sold on the French market for a very remunerative price; that price exceeds by 8 francs per 100 kilos that which sugar manufacturers of other countries can obtain. There results for French industry an advantage that may be estimated

at 2.85 francs per 100 kilos of sugar produced. It seems that this advantage would constitute an indirect bounty.

Although he had no intention to inject the question of molasses into the discussion relative to the suppression of the bounties, he nevertheless thought that he could draw the attention of the conference to this point in consequence of the remarks offered by the honorable delegate of France, Mr. Delatour, touching the lowering of the freight rates in Germany.

Mr. Sebline is of opinion that serious difficulties will be met in incorporating in a text of international convention the provisions that are indicated in the draft of resolution submitted to the deliberations of the conference. Does it come within its intentions to regulate the treatment that each nation should propose to place upon the by-products of sugar? This does not seem possible.

Mr. Sebline does not deny that the duties imposed on foreign molasses entered in France have for effect a rise of the price of French molasses; but it is to be observed that all those molasses are turned into alcohol; now the manufacture of alcohol yields over 270,000,000 francs duty to the treasury, and in this condition of things it is quite natural that France should have given her attention to the protection of her market against an influx of foreign molasses.

The honorable delegate is of opinion that the question of customs duties on molasses should be discarded. He adds that, if the conference had before it a clearly defined draft of convention, the delegates of France could formulate in a more precise manner such reservations as would be suggested thereby; they would moreover be inclined to give kindly consideration to such concessions as it would be possible to make in order to reach an understanding.

The president is of opinion that the question of customs duties on molasses is not so important as some delegates would describe it.

The value of molasses used in the manufacture of alcohol is necessarily limited. It depends on the value of the raw material used in distilleries (corn, rye, barley, beets, etc.). He adds that if upon examination it was found that customs duties on molasses do not constitute a disguised bounty, such by-products might be left out of the contemplated convention.

The Baron d'Aulnis de Bourouill, delegate of the Netherlands, acknowledges that but trifling importance really attaches to the question of molasses. He thinks, however, that it is proper to inquire whether by protecting the product derived from the manufacturing of sugar, and by thus inflating the price on the home market, indirect advantages are not conceded to the principal product. The price of molasses being regulated according to that of the amylaceous matters used for the manufacture of alcohol, this price seems to be connected with the economical conditions of another industry, as stated by Mr. Sebline.

The president observes that the draft of resolution interposes no obstacle to a rise on the home market over the quotations of the international market being effected by means of surtaxes; but, as indicated in the last paragraph, it is to be desired that such surtaxes be regulated so as to confine their action to the protection of the home market. The rate should not be so high as to have for a principal result to suggest combinations among producers. It is important to prevent the rises of the prices of sugar at home should be sought with the main purpose of selling abroad at less than cost price.

Mr. Sebline states that France is the country where the difference between the customs and excise duties is the smallest; where this difference allows the least margin for indirect profit to the refiners; it is the country that has the closest legislation, offering the fewest advantages to exportation.

French legislation was established with a view of protecting the home market and not for the purpose of making inroads on neighboring markets. The honorable delegate believes he has demonstrated that fact in earlier sittings.

The president says that, as a matter of fact, the surtax in France does not exceed 9 francs per 100 kilos for raw sugar and 12 francs for refined sugar.

Mr. Sebline observes that the difference between these two figures leaves but an advance of 3 francs for refiners. The latter complain against this situation and say that the legislation of other countries incite the exportation of sugar in the refined condition, while the French legislation is the only one to promote the exportation of raw sugar.

The president states that the situation in Belgium is analogous. The surtax, which at present is 10 per cent, represents 4 francs 50 centimes for raw sugar and 5 francs 10 centimes for refined sugar; whence a difference of only 0.65 franc.

Mr. Sebline observes that in France the refining industry is subject to draconian legislation. Everything is charged when it enters; everything is noted down when it goes out. If the refiner has done poor work, he pays his taxes on the sugar he destroyed; if he succeeds in getting a surplus, the tax must be paid on it.

If the conference wishes to elaborate a uniform legislation, it will admit that it must adopt the system of "exercice" applied in France to the refineries.

Many countries are content to note the quantities of sugar taken out of the refineries. There is some danger in this single check in this way: The refiner might reap important profit from any remissness on the part of the official. In France such remissness is not to be feared, for it would have to take place twice—when the sugar comes in and when it is taken out.

The French legislation, as compared with others, contains requirements by which refiners are put in a condition of actual inferiority.

The president admits that the régime applied to the refining industry in France is very close to perfection, and he would personally be happy to see it adopted by all the countries represented at the conference.

Mr. Stcheniovsky, delegate of Russia, remarks that the system applied in that country is still more onerous than the French system, as shown in the note handed in this connection by the honorable delegate. There is in Russia neither "yield" nor "waste" in refining[1] That is the reason why Russian refiners can not export to Europe.

His Excellency the Baron d'Aulnis de Bourouill observes that the existing régime in the Netherlands is the same as in France. The situation of the refiners is therefore not any more favorable than in the latter country.

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[1]This is a literal translation of the technical terms "rendement" and "déchet." What the delegate means is that under the Russian system of strict excise control every pound of sugar refined is taxed uniformly; there being no "legal presumption" of the net yield and waste in refining a certain quantity of raw sugar, there is no chance of obtaining a bounty in case of export of refined sugar.

Mr. Raffalovich, Russian delegate, would like to know what arbiter is to decide whether the customs duties are unreasonable or whether they are reasonable.

Can there be a jurisdiction intrusted with that duty? He does not think so, for this would constitute an infringement on state sovereignty.

Inasmuch as Russia pays no premium, whether direct or indirect, she can bring into the conference no element of quid pro quo exchange. Mr. Raffalovich has laid sufficient stress upon the interests that Russian manufacturers would have in an understanding among the countries represented at the conference of such nature as to improve the general situation.

Indorsing an idea expressed by the honorable senator who so brilliantly and competently represents France at the conference, Mr. Raffalovich believes that those who are in a position to submit the text and are willing to do so will render a veritable service, and that he is quite ready to give it sympathetic and impartial consideration.

The president answered that it was essential, first, to form an idea of the dispositions of the countries represented.

The exchanges of views that took place in committee afforded an opportunity of finding that all the delegations except two are ready to adopt purely and simply the draft of a resolution submitted to the conference. There now remains to find an additional text in which these two delegations may concur.

No effort will be spared to attain this end before the next full session.

Baron d'Aulnis de Bourouill expresses a wish of having inserted in the order of the day the following question, which, under instructions of the Netherlands Government, he has the honor to lay before the conference:

"Is the suppression of the bounties to be gradual?"

The honorable delegate observes that, touching the decisions to be arrived at, it is meet that the dispositions of the Parliaments of the several countries should be taken in account. Should the conference succeed in bringing about the signing of an international agreement, the stipulations jointly agreed to could not go into effect until after approval by the legislative chambers. It is therefore important to inquire whether there would not spring up in certain Parliaments an opposition against the immediate suppression of the bounties.

In the Netherlands, for instance, the suppression might be found too onerous for the industry, which in the present condition of legislation depends almost entirely on the bounties.

How will the losses resulting from the suppression be compensated? It may be foreseen that, thanks to the progressive condition of society as it now is, there will be increase of consumption, but this increase would be slow and gradual. If it be admitted that the disadvantages to which the industry would be exposed from the effects of the suppression of the bounties will find no other compensation than such increase, the suppression itself should not be immediate. This is the consideration which impelled the Netherlands Government to suggest a gradual suppression of the bounties.

His Excellency Count Khevenhuller Metsch, delegate of Austria-Hungary, observes that this proposition has rather in view a measure of execution, the examination of which should be postponed until the conference shall have determined upon the bases of the ultimate agreement in regard to the suppression of the bounties.

Baron d'Aulnis de Bourouill declares that he is in accord with the honorable delegate of Austria-Hungary; he did not contemplate an immediate discussion of the proposition, but only its insertion on the order of the day.

This insertion is allowed by the conference.

It decides to meet in committee on Wednesday, June 22, at 10 o'clock, and to hold its next full session on Friday, the 24th, at 3 o'clock.

The sitting is adjourned at 12.15.

The president: P. DE SMET DE NAEYER.

The secretaries: J. JANSSENS.
J. BRUNET.

PROCES VERBAL OF THE SIXTH SITTING.

FRIDAY, *June 24, 1898.*

Mr. de Smet de Naeyer in the chair.

The sitting is opened at 3 o'clock.

All the delegates are present.

In connection with the approval of the procès verbal of the last full session, Baron Lindenfels, delegate of Germany, recalls that during that sitting Mr. Delatour, delegate of France, observed that the lowering of the freight rates in favor of sugars might carry the same effects as an export bounty and that that should also be remedied if the intention was to suppress indirect bounties. The exchange of views that took place on this point in the committee showed that the most part of the delegates did not share this opinion and that the sentiment was that the question should be kept out of the debates.

The honorable delegate of Germany thinks it would be desirable that this should be recorded in the proces verbal of the present sitting.

The president answers that the observations of the Baron de Lindenfels will be mentioned in the procès verbal; the desire of the honorable delegate will thus be gratified.

The procès verbal of the fifth sitting is thereupon approved.

Count Khevenhuller Metsch, delegate of Austria-Hungary, reads the following declaration:

"In the sitting of the 18th of June, the honorable first delegate of Russia read a statement which may be summarized as follows: Russia does not grant any export bounty to its sugar industry. She does not intend to make any change whatsoever in her sugar legislation, even though other States that are now paying bounties should eventually be disposed to abolish them.

"The Russian system concerning sugar is indisputably that which deserves the greatest attention among legislations in Europe bearing upon the same subject. It is an extremely ingenious device, and the Russian Empire is indebted to it for the notable increase in the output of sugar which has taken place since it came into operation; all this with the appearance that no premium, in the narrow meaning of the word, has been applied.

"For that very reason it seems necessary to apply a scrutinizing examination reaching the foundation of that system. Then, and not until then, will it be possible to appreciate its true character.

"A cursory examination of commercial reports shows a wide dis-

crepancy in the prices of sugar in the same grade, according to its destination—that is to say, according as it is to be sold for home consumption or shipped abroad. Thus on the Odessa Exchange the following quotations are observed under the date of June 10 (N. S.),[1] 1898:

	Francs per 100 kilos.	Cents per pound.
For Russia: 5.8 rubles per pood, say	82.70	7.25
For export: 1.73 rubles per pood, say	28.16	2.47
Hence a difference: 3.35 rubles per pood, say	54.54	4.78
Deducting the tax: 1.75 rubles per pood, say	28.49	2.50
There remains a discrepancy of 1.60 per pood, say	26.05	2.28

"The same merchandise, on the same date, and at the same place, thus commanded a different price according to its destination, and the difference amounted to 26.05 francs per 100 kilos (2.28 cents per pound).

"If we are to investigate the reasons which may impel Russian manufacturers to produce more sugar than is needed for home consumption, and to bring the surplus for exportation down to a comparatively much lower price, we shall find the explanation of this strange phenomenon in the legislative system of Russia. Such is our intimate conviction.

"The Russian law fixes the quantity of sugar that each factory is authorized to sell for home consumption according to a scale very ingeniously devised. First, each factory is allowed 60,000 poods (2,166,000 pounds), which, for 285 factories, makes a total of 14.1 million poods (509,010,000 pounds). However, Russian legislation does not stop there. It decrees that the total quantity of sugar turned over to home consumption and paying the tax of 1 ruble 75 kopecks per pood (2½ cents per pound) shall be raised to 31,000,000 poods (1,119,100,000 pounds), which amount under certain conditions, as for instance in the present year, will amount to 33,000,000 poods (1,191,300,000 pounds). The result thereof is that the quantity originally fixed at 60,000 poods per factory, that is to say 14.1 million poods (509,010,000 pounds) for the 235 factories now in existence, is increased by 18.9 million poods (682,290,000 pounds), constituting the aggregate amount allotted for home consumption. This surplus is distributed among the factories in proportion to the quantities of sugar produced by each one over and above the 63,000 poods (2,272,300 pounds) that remain available.

"This computation is somewhat complicated by the fact that the reserve, of small consequence however, which for the present year amounts to 1,250,000 poods (45,125,000 pounds), is set aside.

"To sum up, we arrive at the following computation:

"The Russian output for the current year is 46.1 million poods (1,664,210,000 pounds), from which there is to be deducted 60,000 poods (2,166,000 pounds) for 235 factories, say 14.1 million poods (509,010,000 pounds). The total output in excess of the original quantity of 60,000 poods (2,166,000 pounds) is thus 32,000,000 poods (1,155,200,000 pounds).

"Out of these 32,000,000 poods (1,155,200,000 pounds) there has been allotted: To the reserve 1,250,000 poods (45,125,000 pounds) that is to say, 3.9 per cent; to home consumption 18.9 million poods (182,290,000 pounds)=59 per cent, and to exportation 11.85 million poods (427,785,000 pounds)=37.1 per cent.

[1] Gregorian calendar.

"If the reserve, which must sooner or later be consumed, is not taken into the account, it is found:

	Per cent.
For consumption	61.4
For exportation	38.6

"The actual consumption in Russia shows this result: That by paying the simple tax the maximum quantity admitted for sale at home, 31,000,000 poods (1,119,100,000 pounds) or 33,000,000 poods (1,191,300,000 pounds), is barely sufficient to meet the requirements of consumption up to their strict limit. It seems probable to us, however, that the home consumption slightly exceeds the quantity above mentioned, and that in consequence the Russian industry does pay the double duty for a small amount.

"The sale of the 31,000,000 or 33,000,000 poods (1,119,100,000 or 1,191,300,000 pounds) is assured in any event. All the more as importation of sugar from abroad is barred by a prohibitive duty of 3 rubles per pood (4.28 cents per pound); that is to say, 73.25 francs per 100 kilos.

"This situation gives to the manufacturer a certainty that he may demand of the consumer a price obtained in fact, a price, shall we say, which not only exceeds that on the market of the world by the whole amount of the simple tax, but which reaches in addition almost the second payment of the tax of 1.75 rubles per pood (2.5 cents per pound). Thus an actual advantage of 1.60 rubles per pood (2.28 cents per pound) is gained in consequence. The difference of 15 kopecks per pood (0.21 cent per pound) is explained by the difference in cost of transportation and other commercial conveniences. This protection of the market price varied in the most recent years between 1.40 rubles per pood (2 cents per pound) and 1.65 rubles per pood (2.36 cents per pound), equal to 22.75 francs to 27 francs per 100 kilos. The Russian commerce computes this difference with absolute certainty, and the result is that certificates of export simply constitute a quittance of the State for certain quantity of sugar sold abroad. Now these certificates are quoted on 'change at rates which vary between the above indicated limits.

"(N. B.—These certificates are utilized by merchants and manufacturers to facilitate the exchange of sugar among factories which by their location and interests find exportation easier and those which confine themselves to produce for home consumption.)

"In summing up these data we shall reach the aggregate of advantages conferred upon the sugar industry in Russia by the State. We shall endeavor to condense them into the two following points:

"(*a*) The selling license on the home market computed on an average of 1.50 rubles per pood(2.14 cents per pound) represents the right for each factory to dispose of 60,000 poods (2,166,000 pounds) for the price of 90,000 rubles ($46,352)—that is to say, 240,000 francs. This constitutes a kind of subsidy which Russian law offers a priori every year to home factories, a subsidy which it makes the consumer pay them.

"(*b*) The quantity of sugar produced over and above the 60,000 poods (2,166,000 pounds) per factory is allotted to home consumption only to the limit of 60 per cent and a fraction, but this quantity also commands the protected price of 1.50 rubles per pood (2.14 cents per pound), reckoned on the basis of 60 per cent. We thus reach the total of 90 copecks per pood (1.28 cents per pound), that is to say, 14.65

francs per 100 kilos. This measure carries exactly the same effect as the export bounty given by the other states.

"There is a difference in the form of protection between the systems of countries that grant bounties and that which governs the same matter in Russia. While the former issues certificates payable in coin, the latter only delivers certificates of export which are quoted on 'change.

"But the essential difference in the favors accorded by Russia to the sugar industry is characteristic in that the disguised bounty is much higher than that known in other countries, France included, and that over and above this exorbitant bounty each factory realizes an annual profit derived from the 60,000 poods (2,166,000 pounds) assured in advance; that is to say, nearly 250,000 francs, or over $46,000.

"To sum up, there are annually sold in Russia at least 33,000,000 poods (1,191,300,000 pounds), at 1.50 rubles (2.14 cents per pound) more than the price quoted on the markets of the world. This represents for the aggregate of Russian factories a favor which amounts to 49,500,000 rubles; that is to say, 132,000,000 francs ($25,500,000). Taking an output of 46.1 millions poods of the current year, which corresponds in round figures to 1,664,200,000 pounds, for a basis, the advantages indicated under (*a*) and (*b*) are tantamount to a premium of 17.60 francs per 100 kilos (1.53 cents per pound) of sugar produced.

"These enormous figures afford a sufficient explanation of the motive which impels Russian manufacturers to increase their output. They also explain how Russia is in position to export, notwithstanding low rates, to the markets of the world, and why she is the only State where in recent years new factories have been erected and more still contemplated.

"It is fair, however, to add that by reason of the increase in production the per cent of the quantity admitted for consumption under payment of the simple duty will be successively reduced. But the same effect is produced in Austria-Hungary and in the Netherlands, where the bounties are limited to a determined amount. There, also, an increase of production works a reduction of the bounties, and besides this it must be borne in mind that the Russian premium is four times higher, and that in consequence the manufacturers are better able to stand an eventual reduction.

"The honorable first delegate of Russia himself gives us, besides, with great accuracy, the character of the tendency of Russian legislation in regard to sugar when he says it is a question of alleviating the losses sustained by the manufacturers when they sell abroad. We believe, indeed, that such has been the tendency of Russian law, and that the result achieved has been as complete as could be wished for.

"The honorable delegate from Russia has repeatedly endeavored to excite a sympathy for the unfortunate fate of her manufacturers. We could do the same for ours. All the calamities of climate, frosts, droughts, and pernicious insects take place in nearly all countries and are by no means the exclusive portion of any one country.

"For instance, with us, the Marchfeld in lower Austria, certain lands in Galicia, and the low plains of Hungary are liable as in Russia to various weather disturbances. The cost of coal, to cite one example, is not any higher in Russia in those parts of the Empire where sugar is produced than in any other country.

"If this aspect of the situation is to be admitted in the eventual

general abolition of bounties, other elements should be taken into consideration: the cost of labor, for instance, or the greater or smaller yield of beet root. For all this may, under certain contingencies, constitute advantages.

"We believe that the remarks which the honorable first delegate of Russia was pleased to submit in respect of the London conference have no longer any bearing. Nearly all the States concerned have since that time changed the foundation of their sugar legislation, especially so Russia, whose present system, which was begun in 1895, grants in our opinion the greatest advantages.

"If bounties should be abolished generally, the Governments of Austria and Hungary could not agree to suppress that which is granted in their territory, except on condition that the Russian Imperial Government should declare its readiness to adopt similar measures."

The president directs that this statement shall be made of record.

Mr. Raffalovich, delegate of Russia, wishes to make his reservations touching a discussion that might be opened upon the internal régime of Russia. According to information that he has received from his Government, the latter has no intention of modifying its sugar legislation. He asks that this declaration be made of record.

The president directs that Mr. Raffalovich's reservations be made of record.

The president opens the discussion of the draft of resolution concerning the definition of bounty, which was examined by the conference sitting in committee. There results from the exchange of views which followed that this draft is submitted to the conference in its original text. This text, which is read by the president, is as follows:

"The conference, while reserving the question of mitigations and provisional disposition that may be authorized if need be by reason of exceptional situations, is of opinion that bounties whose abolition is desirable are understood to be all the advantages conceded to manufacturers and refiners by the fiscal legislation of the States and that directly or indirectly are borne by the public treasury.

"There should be classified as such, *notably*:

"(*a*) The direct advantages granted in case of exportation.

"(*b*) The direct advantages granted to production.

"(*c*) The total or partial exemptions from taxation granted to a portion of the manufactured products.

"(*d*) The indirect advantages growing out of surplus or allowance in manufacturing effected beyond the legal estimates.

"(*e*) The profit that may be derived from an excessive drawback.

"In addition, the conference is of opinion that advantages similar to those resulting from the bounties hereinbefore defined may be derived from the disproportion between the rate of customs duties and that of consumption dues (surtaxes), especially when the public powers impose, incite, or encourage combinations among sugar producers.

"It would be desirable to regulate surtaxes in such manner as to confine their operation to the protection of home markets."

Mr. Sebline, delegate of France, offers the remark herein below transcribed:

"I have no fundamental objection to oppose to the definition which has just been read. It may be said, and this is no reproach which I am making, that its character is so general that it seems to have been made not so much in view of the subject-matter we are now examining

as to characterize the bounties which the several industries may enjoy.

"One must, however, observe that it is far from having provided for all the modes of encouragement that may be used by a country for the purpose of fostering its industry.

"Thus when a State, for the purpose of promoting its metallurgic industry, inflates the price of orders that it has made on condition that an equal quantity will be exported as that ordered, it obviously bestows on its industry a bounty which is not included in any of the cases of your definition. Therefore you are right in not giving to it a limitative character.

"But when we come to apply to sugar industry the definition that you have just elaborated, another difficulty will spring up, which I desire to submit to you here and now.

"I believe I have demonstrated in a previous statement that indirect bounties are chiefly in the nature of encouragements to agriculture.

"France is to-day invited to renounce it, but among the States which so invite her is there none that is still resorting to it?

"Undoubtedly Germany renounced the system of indirect bounty for sugar, but she energetically maintained it for alcohol. There result therefrom consequences which I desire to place before the conference.

"Although it may not be formally forbidden by the German legislation to use beets in the manufacture of alcohol, as a matter of fact, with the assistance of a most ingenious bounty system, the production of alcohol is reserved for the distilling of potatoes, of grains, and of a certain number of other substances.

"The following table, which gives for the season of 1896–97 the production of alcohol in Germany according to the raw material used, will afford an idea thereof:

	Hectoliters.
Potatoes	2,396,286
Grains	546,565
Molasses	128,066
Other substances not farinaceous	28,504
Total	3,099,511

"That is to say, that potatoes and grains contributed for 2,942,851 hectoliters to a total production of alcohol of 3,099,511 hectoliters.

"If you compute how many hectares were required for such a production, you will reach the figure of about 300,000, whereas the cultivation of beet in France does not take up more than 225,000 hectares.

"If, then, the result of our deliberations was that France must relinquish her indirect bounties, French cultivation would witness the disappearance of all its advantages, while the German cultivation would conserve its own on a surface of 300,000 hectares.

"But the German legislation carries consequences of greater import still, and much more related to the very subject of the deliberations of the conference.

"If Germany through her system of bounties had not reserved for potatoes and grains the production of alcohol, what would have occurred? That which is taking place in France. Alcohol would have been for the most part extracted from beet root, with which it is produced at much smaller expense.

"There would have resulted, as in France, a strife that is often quite keen among sugar manufacturers and distillers—a strife which would have led the sugar manufacturers to inflate the price of beets.

"From this very fact Germany concedes a marked advantage to her sugar manufacturers.

"But there is more. A large portion of the 2,900,000 hectoliters of alcohol extracted from the potatoes and grain would have been taken from beet. The cultivation of sugar beet would have been decreased and the production of sugar itself perceptibly diminished.

"Then the foreign markets would have been singularly purified. It is thus that by an action that is, so to speak, reflex, the present German legislation, which, so far as I know, it is not now proposed to reform, encourages an excessive production of sugar from which the glutting of outside markets results.

"One would then be compelled, if the desire was to bring to a successful issue with all its rigor the reform that is now proposed to us, to interfere with internal legislations. One would be led in regard to Germany to demand the total suppression of the bounties which she grants to her alcohol industries.

"It is because we perceived from the outset the difficulties of such an undertaking that we were careful to place internal legislation outside of the debate.

"The explanation which I have just had the honor to present to the conference shows to the point of evidence that besides the direct or indirect bounties included in your definition there are other modes of granting advantages to home production and thereby to warp competition on outside markets.

"I hope that the conference will not misapprehend my meaning. I have had no intention to criticise the German legislation. I find it most remarkable. It has achieved the double object that it has set for itself: To incite an enormous production of sugar and alcohol by reserving sugar for cultivation on large farms, and alcohol for cultivation on small farms. If France had, as it was at one time proposed, followed in the footsteps of Germany, her rich soil in the north would have been reserved for the cultivation of the sugar beet. Her light soil in Champagne, the Vosges and the center would have raised the potatoes and the grains necessary for distilling.

"One may imagine from the example of Germany the degree of agricultural prosperity that would have been, temporarily at least, obtained by France.

"France did not adopt this system and should congratulate herself therefor, for it presents two very serious defects. It diverts from their natural course the sources of production. It brings about an overproduction which will soon have exceeded the requirements of the home market and compels a resort to exportation.

"It involves a demoralization of prices on foreign markets and necessarily occasions a crisis that all the bounties in the world are powerless to ward off.

"France congratulates herself upon having limited her production of alcohol to the requirements of her consumption.

"If she was led to protect her sugar industry, it was in order to meet the competition carried on against her then, and even now, by bounty-fed industries.

"But she did so in moderation, and her exportation, as I have demonstrated in a preceding statement, is not to be compared with that of her powerful rivals.

"Therefore she believes she is warranted in protecting her internal régime which has yielded such modest results."

The president observes that the remarks, surely very interesting, offered by the honorable delegate of France will bring the conference back to the debate raised in the course of the preceding sitting by Mr. Delatour in connection with the freight rates. The deliberations of the conference would never come to a conclusion if special points similar to that considered by Mr. Sebline, notably the reflex action that may be operated on sugar production by the bounties granted to other industries, were grafted upon the object in view of which it is convened.

Mr. De Smet De Naever believes that the honorable delegate has somewhat exaggerated the importance of the part played by beet root in the production of alcohol. In Belgium and in the Netherlands nothing stands in the way of using beet, but as a matter of profit distillers find their greater advantage in using grain, especially corn. If things are otherwise in France, it is by reason of the customs duties imposed on that raw material.

Mr. Sebline answers that he did not mean to dispute the correctness of the definition itself as submitted to the examination of the conference, but he desired to seize the opportunity that was offered to point out the difference of treatment which would be applied to France and Germany if the internal régime were put into debate.

In Belgium corn is imported duty free. It is not thus in Germany. That country, like France, has reserved to manufacture alcohol with the products of its soil.

In France alcohol may be made with such material as is preferred, but, as a matter of fact, only wine, cider, and beets are used.

If bounties to alcohol were to be suppressed in Germany, beet root would enter into competition with potato for the manufacture of alcohol. There would be in consequence a complete breaking up of the equilibrium in consequence of the bounties bestowed on German distilleries.

Germany endeavors to protect small farmers. She gives energetic support to small distilleries and has succeeded in producing large quantities of alcohol. She also assisted in an expansion of this production by favoring the denaturalization of alcohol and its use for industrial purposes.

These measures have worked a reflex action on sugar legislation, for if legislation did not intervene to exclude beet roots from the manufacture of alcohol, beet root would come to be used at once for sugar and distilling.

That is what occurs in France, where sugar manufacturers, compelled to compete with distillers for their raw material, pay higher prices for it than in other countries.

These indications show that by attempting to tamper with internal legislations extreme difficulties would be encountered and an agreement would not be possible. Let us begin by relinquishing direct export bounties—as France is quite ready to do—and let us intrust to each State the care of modifying, according to its interest, the indirect advantages guaranteed by its internal legislation.

The president does not believe that the conference will concur in the conclusions that have just been formulated. The deliberations have sufficiently progressed to enable him to assert that on this ground no understanding could be hoped for; the solution must be sought in the conventional suppression of the two classes of direct and indirect bounties.

Mr. De Smet de Naeyer expresses the opinion that while account be taken of the reservations repeatedly made by the French delegation in regard to the law of 1884, there must be some means of giving satisfaction to the countries that believe that nothing would be done on the day when the question of the suppression of direct bounties should be decided without solving at the same time the question of indirect bounties. The latter have a dual effect; they exert an influence on exportation on the one hand, on the conditions of production from the point of view of home markets on the other. Now, the explanations offered by Mr. Sebline show that France has especially in view the interests of its agriculture in the indirect bounties.

The question would then be to find a formula which would enable France to maintain her internal régime while offering to other nations guarantees in regard to exportation—that is to say, in regard to competition on outside markets. It is in this order of ideas that some delegates will offer a formula which they propose to submit to the examination of the States represented at the conference without its being binding on the opinion of the delegates nor on the resolutions of their Governments.

The president suggests that the conference first pass upon the definition of bounties, all reservations being respected.

Mr. Sebline states that he is not opposed to that definition; he only desired to point out that there are cases where bounties may be given to a certain industry without coming within the definition itself. He should like to accept this definition only as qualified by the remarks he offered to the conference.

The definition of bounties formulated in the draft of resolution above transcribed is successively accepted by the delegations of Germany, Austria-Hungary, Belgium, Spain, France, Great Britain, the Netherlands, Russia, and Sweden—as regards France and Russia, under the reservations previously made.

As to Sweden, his excellency Count Gyldenstolpe believes that it may be considered as having been accepted on all hands that the advantages conceded in different countries to sugar producers and refiners, the aboltion of which is proposed, will in any case be no other than those which do or might exert any influence whatever upon exportation.

Inasmuch as Sweden does not export sugar and grants no drawback to native exported sugar, the honorable delegate is of opinion that the resolution relative to the definition of the bounty considered by the conference does not aim at the internal régime of Sweden. He would be happy if the fact was confirmed.

It might perhaps be objected that under the present régime nothing prevents manufacturers from organizing syndicates the object of which would be to cause a rise of prices at home, so that sugar might be exported even at a loss; but in such a contingency the Swedish Government would undoubtedly hasten to thwart the efforts of such a combination by reducing the rates of customs duties.

The president takes official notice of this declaration. By adhering to an international agreement Sweden will have the faculty of stipulating that the terms of this agreement shall not have to be carried out by her until such time when she may become an exporter of sugar.

The conference enters upon an examination of the question relative to the régime of refineries; the technical committee to which this ques-

tion was referred has elaborated a report which was submitted to the deliberations of the conference sitting in committee.

These deliberations culminated in an agreement on the following points:

First, adoption of the régime of the "exercice" (ascertainment of the quantities actually produced and collection of the tax upon the whole amount of sugar taken out for consumption; check based especially upon the stock taking).

Second, taxation of the different grades of sugar, as far as practicable, according to a uniform tariff; that is to say, without distinction as to degree of purity.

Third, exemption for all nonedible byproducts from taxation.

As regards No. 1, Mr. Sebline observes that the double check made when the sugar is taken in or out can be the only efficient method.

The president states that according to the explanations made in committee this double check really exists; stock is taken everywhere, which is only possible on condition that an account shall have been taken of the quantities taken in.

Mr. Sebline declares that he will approve the proposed system, which, besides, is that existing in France. He takes pleasure in finding that the wish of the countries represented at the conference in regard to applying the "exercice" system to their industry constitutes a very long step forward.

In connection with No. 2, the president observes that in countries where a moderate tax is collected the system which consists in taxing sugars without distinction as to the degree of purity is found to be practical and advantageous. It would be desirable to have that system applied everywhere.

The president states that the technical committee has addressed itself to a fourth point—the duration of the term of credit fixed for the payment of the tax. It has advocated in this regard uniform rules with a view of equalizing the burdens laid on the refiners of the different countries. Inasmuch as a term of credit of a certain duration is tantamount to a reduction of the consumption duty and that duty varies in every country, the point is of only secondary importance and may apparently be overlooked.

The conference concurs in this view and approves the resolutions proposed in regard to the other three points.

The conference then enters upon the examination of the point of the programme regarding the indication of the mitigations and provisional dispositions to be authorized, if need be, by reason of exceptional conditions.

The president recalls that the conference took official notice of the declarations repeatedly made by the delegates of France in regard to the limitations of their powers and the desire of the French Government to maintain the régime established by the law of 1884.

Without in any way prejudging either the adhesion of France or that of any of the governments represented, a group of delegates of Belgium and the Netherlands, for the purpose of facilitating an understanding, thought they could assume the initiative of a compromise which would eventually enable the French Government to adhere to an international agreement without having to relinquish its present legislation. Two formulas that are to be submitted to the choice of the French Government have been prepared to that effect.

It is understood that the present conference would not be called

upon to pass on these formulas; they would be simply submitted by the delegates to their respective governments together with the other points in respect of which solutions might be suggested.

They imply on the part of France an engagement to abolish all direct export bounties and besides not to increase the amount of the indirect bounty resulting from her present fiscal régime.

First formula. France engages whenever her exports of refined sugar shall exceed during the season the quantity of 235,000 tons, which represent the average export of the years 1892–93 to 1896–97, to reduce by one-quarter the indirect premium resulting from her fiscal régime and to continue so doing until the bounty shall have been completely abolished.

There will be no distinction made as to the amount of exports between beet and cane sugars.

Second formula. France engages to collect on exported sugar a duty equal to the amount of the indirect bounty by which the production may have profited during the season preceding that under consideration. A quantity of 50,000 tons, however, will be exempted from the export duty every year.

The president deems it useful to determine precisely the purport of these two formulas and to tell briefly how they were brought forth.

As explained by the first delegate of France, the exportations from that country during the season 1897–98 reached an exceptional figure under the influence of the direct bounty established by the law of 1897. The application of the two proposed compromises implying the relinquishment of all kinds of bounties by other countries, it was logical that the figures relating to the aforesaid season be eliminated in order to settle the average exports from France.

The Hon. Mr. Sebline has also explained that the comparatively low figure of French exports is manifest proof that the sugar legislation of France aims less at developing exportation than at creating at home a favorable régime for agriculture. If French sugar interests really need for support at home encouragements in the shape of indirect bounties, the amount of exportation will be, as it were, the barometer of the vitality of this industry. Either French exportation will not, in consequence of an international agreement, achieve any increase, and therein would be the confirmation of the theory which has been sustained in the conference, or, on the contrary, following the suppression of the bounties in the other countries, the exportation will increase, and it will thus be proved that the vitality of the sugar industry is stronger than the delegates of France themselves believe.

Taking the average figure of exportation as a basis, it will be possible to establish with mathematic certainty, should this exportation increase, that the protection granted to French industry may be abated. The first formula rests on this reasoning. It provides for a gradual reduction by quarters of the indirect bounty in the event of exportation happening to exceed the average of the years 1892–93 to 1896–97.

The second formula finds also its source in the fact that the system of the law of 1884 had for its main object to promote production from the standpoint of the home market and agricultural interests. It allows France to maintain the whole of its bounties for produced sugar as far as her own consumption is concerned, but it asks her to abandon it for exported sugar; the indirect bounty would be returned by the exporter in the shape of an export duty. In order to go one step further in the way of concessions, it is proposed to exempt yearly 50,000

tons from the payment of this export duty. This exemption would be effected by means of certificates that would be distributed among the manufacturers in the ratio of their production. Neither the delegates of France nor those of the other countries are asked their opinion concerning these formulas; the only thing asked is that the conference may decide that they shall be transmitted to the various governments.

Mr. Sebline recalls the peculiar situation of the French delegation, whose instructions have been so clearly defined in the correspondence exchanged between the French and Belgian Governments. These instructions bar any discussion of the internal legislation of France. The delegation can in consequence but take formal notice in the conference of the propositions that have just been expounded.

It is, however, unable to agree to let these formulas, which bring into question provisions of the internal legislation of France, be referred to the other states at the same time as to the Government of the Republic.

The honorable delegate sees no objection to the French delegation being charged with the duty of laying proposals for an understanding before its Government. It would, however, prefer that resort be had to the diplomatic channel, and believes that it would be desirable that the proposals be couched in more liberal terms than those of the formulas that have just been laid before the conference.

There is no obstacle to direct negotiations being entered into with a view of obtaining of the French Government that its legislation may not grant new advantages to industry, or even that the present advantages be somewhat modified in return for sacrifices that other powers may be willing to make.

The honorable delegate believes that owing to the wish of his Government that the internal régime of France shall not be discussed in the conference, propositions touching this régime would be more likely to be well received if they were directly presented by the Belgian Government.

There is one thing that could not be acceded to under any circumstances; that is, that a reform of the internal legislation of France be referred to foreign governments as a consequence of the resolutions passed by the conference itself.

The French delegation has been instructed not to allow a discussion of its internal régime in the conference. It objects most vigorously to having that internal régime submitted to the examination of the states therein represented; it seems to him that this would be a modus operandi contrary to international law.

It hopes that the conference will concede the point as well taken; but it is ready, in its desire to show itself conciliatory to the end, to report and submit to its Government such compromises as might be proposed by the conference.

If the president should think that a compromise would be more likely to succeed through the diplomatic channel, the delegation would see with great satisfaction the Government of the King take the initiative of such an exchange of views.

In brief, the French delegation came here with the most conciliatory intentions. It gave evidence of it on the very first day, when it formulated the only substantial proposition that has yet been offered to the conference, viz, the suppression of direct export bounties. It has no wish to see the adjournment of this conference without leaving

behind some ground upon which the Governments gathered in this hall may agree.

It was the duty of the delegation to safeguard the very important interests whose defence had been intrusted to it. It is ready, and its Government itself, it has no doubt, is also ready to look into any solution that will safeguard those interests, with a sincere desire to arrive at an understanding among all the nations concerned.

Mr. Raffalovich, delegate of Russia, supports the considerations set forth by the honorable delegate from France. He asks that the authors of the two formulas forego their intention of submitting them to the conference, and that these formulas be made the subject of diplomatic negotiation; that procedure seems to him to be the more likely to succeed.

He does not believe that it will be possible to reach a conclusion by laying before the conference propositions which aim at a particular country and bring its home legislation into question.

The president asked whether it would not be expedient, before proceeding with the debate which has just been opened, for the conference to enter upon an exchange of views in regard to the declaration read at the opening of the sitting in the name of the Austro-Hungarian delegation.

Mr. Raffalovich deems it his duty to declare that, so far as he is concerned, he can not allow the internal home legislation of his country to be discussed by the conference.

The president observes that the conference is convened for the purpose of equalizing the conditions of competition, and that the deliberations necessarily involve, therefore, a simultaneous examination of the legislations of the several countries. He recalls that at the London conference, in 1887, Belgium, who had declared that she could not join in the system of the "exercice," had not made the slightest objection to an examination by the several nations represented at the conference of her legislation and of the modifications that might be brought into it.

Mr. Raffalovich does not mean to preclude an examination of the Russian system by the conference. On the contrary, he would be most happy to avail himself of such remarks as this system may call forth on the part of the competent persons who constitute the assembly. He asks, however, that he may, so far as he is concerned, refrain from taking any part in the debate.

His Excellency Count Khevenhuller Metsch desires to state that the Austro-Hungarian delegation has come to the conference with the intention of relinquishing direct bounties; but it does not seem that an understanding can be had if one of the countries declares in advance that it has nothing to give in return for concessions granted in that direction.

The president suggests to the conference that the next meeting be held on Saturday afternoon. There might be examined at that sitting a draft of resolution which, with due regard to the several remarks made, would be of such a nature as to win the adhesion of the delegations of all the countries represented.

The next sitting is fixed for Saturday, June 25, at 3 o'clock.

The sitting is adjourned at 5 o'clock.

The president: P. DE SMET DE NAEYER.
The secretaries: J. JANSSENS,
J. BRUNET.

PROCÈS VERBAL OF THE SEVENTH AND LAST SITTING.

SATURDAY, *June 25, 1898.*

Mr. de Smet de Naeyer in the chair.

The sitting is opened at 3 o'clock.

All the delegates are present.

Mr. Kühn, delegate of Germany, recalls that on the occasion of an exchange of views concerning the definition of bounties it was said that a definition having sole regard to the sugar legislation would not be broad enough, because sugar industry might be equally favored by legislation concerning other substances. The régime of alcohols in Germany was cited as an example. The honorable delegate sees no relation between this régime and the advantages bestowed on the sugar industry. On the contrary, the sugar manufacturers would no doubt profit by a legislation which, contrary to that which is now in force, would permit distillers to use molasses. Now, the distilling of beets in Germany would cause no disadvantage for sugar manufacturers, in view of the fact that there are sufficient areas of ground for a greater extension of beet cultivation.

Be this as it may, it was in another train of thought that Mr. Kühn took the floor.

The president took official notice of the reservations that have been formulated in that respect at the last sitting. The honorable delegate takes the liberty of asking him to be good enough to take, in like manner, notice of the fact that there has not been at any time any proposition of extending the definition of bounties in the sense above mentioned, nor of entering upon a discussion on this point.

The president answers that the procès verbal will give satisfaction to the honorable delegate.

Mr. Raffalovich, Russian delegate, reads the following statement:

"At the sitting of the 18th of June, I explained how Russia was unable to bring into the conference any element of exchange.

"His excellency the minister of Austria-Hungary read a paper on the Russian system, which concluded in asserting that if Russia should not grant concessions equivalent to the suppression of bounties by Austria-Hungary, that State would continue granting export bounties to its sugar producers.

"As I said yesterday, I did not think I was in a position to follow his excellency, the first delegate of Austria-Hungary, on the ground of a debate in full session, although invited to do so by his excellency, our president. We should have found ourselves in the embarrassing position of meeting—I shall be careful not to say assertion with assertion—but appreciation and interpretation with appreciation and interpretation; and even admitting that recourse may be had, in order to decide the question, to a vote of the States here represented, I do not believe that a majority vote could have any influence on our way of considering domestic legislation. However, with a feeling of deference for my brilliant opponent, and without any desire of going deeply into the question, I beg leave to present a few rectifications, so that the conference may form a correct idea of the condition of the sugar industry in Russia.

"The Austro-Hungarian paper maintains that the sugar output has largely increased in Russia since the putting into effect of the law of 1895, which might lead one to suppose that there was a great surplus of sugar produced in the Empire.

"As the consumption largely increases every year the production does not exceed it by much. Russia, besides her home consumption, must supply the markets of Finland and the neighboring markets of Asia which are within her exclusive sphere.

"For the year 1898–99 the home consumption is estimated at 34,000,000 poods (1,227,400,000 pounds) at least. To this must be added over 3,000,000 poods (108,300,000 pounds) for the markets of Finland and Central Asia, whose requirements increase yearly by 10 per cent, the compulsory reserve having this year been reduced by an unlooked-for increase of consumption of 1,250,000 poods (45,125,000 pounds), there will be required 2,250,000 poods (81,225,000 pounds) to bring it up to the figure determined by law, making a total amount of about 40,000,000 poods (1,444,000 pounds). The Russian output for 1898–99 may be estimated according to the areas sown, which are 400,000 "desiatines" (1,080,000 acres)[1]. The average of sugar crop per "desiatine" has varied in Russia from 91 to 123 poods (3,285 to 4,440 pounds, equivalent to 1,217 to 1,644 pounds per acre). Taking the average figure of 107 poods (3,863 pounds per dessiatina, or 1,431 pounds per acre), the Russian production will be 42,800,000 poods (1,545,080,000 pounds), which is only 2,800,000, or 44,800 metric tons or 45,100 gross tons in excess of the requirements of the Russian markets. This is a very small figure in comparison with other countries.[2]

"If the crops should be mediocre Russia would have nothing to export, but might, perhaps, have to call upon foreign supplies for the sugar that she may need.

"With the increase of consumption, Russia must make home production able to meet it.

"The Russian Government promulgated the law of 1895 with a view of preventing overproduction, and it is surprising that that law should be looked upon as awarding indirect bounty to exportation.

"The computations presented in the Austro-Hungarian paper call for some remarks, for they seem to us to be lacking in accuracy:

"1. The compulsory reserve was fixed for 1897–98 at 2,500,000 poods (90,250,000 pounds) and not at 1,250,000 poods (45,125,000 pounds). Out of this reserve 1,250,000 poods (45,125,000 pounds) have been placed upon the home markets to prevent a rise of the price beyond the maximum determined by law.

"2. The figure 46,100,000 poods (1,664,210,000 pounds) includes not only the sugar in condition to be taken out of the factories, but also the stock of subproducts (unfinished product) which has to be carried over in that condition to the following year. The quantity actually produced will consequently be less.

"3. It is not 38.6 per cent of its production that Russia exports to Europe, as stated in the paper, but only 11.4 per cent, as shown in the following computation:

"To be deducted:

	Thousand poods.		1,000 lbs.
Products carried over to the following season	3,600	=	129,960
Finland and Asia	3,000	=	108,300
Remainder of the reserve	1,250	=	45,125
Consumption	33,000	=	1,191,300
	40,850	=	1,474,685

[1] 1 Dessiatina=2.6997 acres, or 2.7 in round numbers.
[2] Austria exports ten times as much and Germany twenty times.

"If the amount of 40.85 million poods (1,474,685,000 pounds) be deducted from 46.1 million poods (1,664,210,000 pounds), representing the production of 1897–'98, there remains a difference to be exported to Europe in the said year, say, 11.4 per cent.

"We have already seen that for the following year exportation, in consequence of the increase in consumption, will be but 2.8 million poods (101,080,000 pounds); that is to say, less than 6 per cent of the production.

"4. The maximum price on the home market is determined every year by the council of ministers and yearly lowered. That price does not, as maintained in the paper, depend on the export price, with the tax and indirect premium added."

"The difference pointed out in the paper as existing between the domestic and foreign prices depends on the cost of production, which is higher in Russia than in the other countries for the reasons cited by the delegates of Russia (climate, cost of fuel, remoteness of producing and consuming localities, higher cost for equipment and machinery, deficiency of communications), and by reason of the foreign prices being lowered below the cost of production by the bounties awarded in other countries.

"The Russian manufacturer therefore exports at a loss, and it seems strange that the fine which he pays to relieve himself from the obligation of exporting can be considered to be an export bounty.

"5. The computation in points (A) and (B) is completely inaccurate; 1.50 ruble (77.3 cents per pood = 2.14 cents per pound) does not represent the profit of the manufacturer, but only the difference between the domestic and foreign prices. Sugar costs much more to produce in Russia than in the other countries; about 2.20 rubles per pood (81.13 per pood = 3.13 cents per pound), with 1.80 (92.7 cents per pood, or 2.57 cents per pound) for various taxes added. The cost price thus reaches 4 rubles per pood, or 5.7 cents per pound, a price which corresponds to the selling price on the home market (on the average 4.50 rubles = 6.42 cents per pound). There thus remains a profit of 50 copecks per pood, or 0.72 cent per pound, from which is to be deducted the loss resulting from exportation and the compulsory reserve, which reduces the profit to about 25 copecks per pood, or 0.36 cent per pound.

"The statistics of joint-stock companies, whose balance sheets are published and are under the supervision of the State in connection with the income tax, demonstrate that before the law of 1895 sugar factories had declared an average dividend of 10 per cent in 1893 and 1894 and of 5.4 per cent after the promulgation of the law in 1895–96.

"The paper asserts that there is a difference of form of protection between the systems of bounty-paying countries. It may be said that there is even a difference of substance, as the Russian manufacturer does not receive export bounties, but, on the contrary, sustains a loss on every exported pood.

"*Russia's legislation, therefore, goes even further than the very resolutions of the conference, for not only does it not grant export bounties, but, on the contrary, it imposes penalty on the sugars that are produced in excess of the home-market demands.*"

"The conclusions of the Austro-Hungarian paper look to us to be erroneous in the contention that Russia encourages exportation.

"The number of factories has not increased: it decreased from 244

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in 1884 to 235 in 1897. The paper seems to look upon the high prices on the home markets as a premium for exportation. We have demonstrated that the home-market prices, taking the cost price into consideration, are not relatively high in Russia.

"Would it be indiscreet to recall that his excellency Count Khevenhuller Metsch declared "that the cartel (combination) of Austro-Hungarian manufacturers has for effect an enhancement of prices on the home market? Must the consequence be deduced that Austria-Hungary grants, besides the direct bounty, indirect bounties by reason of the cartel which her Government tolerates?"

Baron d'Aulnis de Bourouill, delegate of The Netherlands, wishes to present some arguments in favor of the second formula for a compromise presented in the course of the last sitting.

He recalls that, according to the suggested system, France would engage to lay upon its exported sugar a duty of equal amount to the indirect bounty by which production may have been benefited during the season coming before that in consideration. However, a quantity of 50,000 tons would enjoy every year an exemption from the export duty.

The honorable delegate recites the advantages that would be reaped by France on acceding to that device, the adoption of which should of course imply the suppression of direct bounty in France and of all kinds of bounties in the other countries.

The suggested system would leave the law of 1884 intact in that way that nothing would be changed in the internal régime now applied to the French sugar industry.

The stimulating action of that law would in no wise be impaired as regards the surplus of production.

Manufacturers would continue to profit by the indirect bounty for sugar destined for home consumption, and that bounty would be in part left with them for exported sugar. The price of sugar would be diminished for French consumers, for if, as demonstrated by the Hon. Mr. Sebline, the consequence of direct bounties was to enhance the price on the home market, the export duty has the opposite effect.

The difference which has taken place in France between the quotations on the home market and on the markets of the world would grow less on both sides. On the one hand the quotations of the home market would fall; on the other hand that of the markets of the world would rise by the operation of the international treaty by which the system of bounties would be brought to an end. Sugar sellers in France who now find their prices higher than they are on the markets of the world must bear in mind that the latter have fallen under the very influence of the bounties, whether direct or indirect. The difference in question is a deceptive advantage.

In consequence of the rise on outside markets, France would command a higher price for her exports to the markets of England.

The receipts of the Treasury would be increased by the amount of the export duties, and the revenues would besides be benefited by the suppression of the direct bounty. The treasury is the State, is the French nation itself. Thanks to the new source of revenue, the tax on sugar could be reduced; another advantage for the consumer. If France should accede to no arrangement, and if the hope of arriving at an international agreement should have to be given up, could not England be led to take measures? If she should follow in the foot-

steps of the United States, how much more disadvantageous would the situation, which is now so onerous for producing countries, become. Is it not absurd that the treasuries of the Continent should pay to manufacturers bounties that the latter turned into the Treasury of the United States. The French delegation will admit that no effort should be spared to extricate ourselves from such a situation, and to prevent its growing worse in the future.

Baron d'Aulnis de Bourouill then addressed the assembly on the subject of existing legislation in Russia.

It seems that in former days it was believed that the surtaxes[1] imposed in Russia were the original cause of the situation in which foreign manufacturers were placed by the Russian system from the standpoint of competition in outside markets. The honorable delegate of the Netherlands is of opinion that the origin of this situation, at least under present circumstances, is different. The Russian system puts a limit, by virtue of governmental action, to the production for home consumption; that is to say, to the supply for the home markets. Now, if one wishes to limit the supply, it is natural that the barrier should be raised to stop the influx of foreign sugars; the surtax is therefore a necessary adjunct to the limitation of home consumption; but from that limitation arise the dangers for producers in other countries.

The supply for the home market being limited, the selling price on that market is very remunerative; each producer has therefore an interest in placing as much sugar as he can on the home market, and as the total amount to be so placed on that market is distributed among all the manufacturers in proportion to their respective output, they are incited to enhance the amount of that output. Now, such sugar as they can not sell at home must be exported; they are thus led to selling abroad, even at less than cost price, and their only object is to compensate losses sustained abroad by profits made on the home market.

For an important portion of the Russian output exportation has, as a matter of fact, become the condition which the manufacturer must meet in order to sell at home. That is the characteristic feature of the Russian system, that by which it is distinguished from all others.

The honorable delegate believes that it is no easy matter to represent in figures the interest that Russian manufacturers have in exporting, but it seems certain that it is rather a considerable one.

Is that an export bounty? Not within the technical meaning of the word; but it is an inducement, a special financial interest, which operates like a bounty.

The honorable first delegate of Russia said in the fifth sitting that the Russian Government had chiefly a stability of prices for its object. The Baron d'Aulnis de Bourouill readily concedes this. It could not have been the intention of the Imperial Government to promote exportations that were unprofitable to the manufacturers. Can not the conclusion be deduced that in artificial economical systems there are things that are seen and others that are not seen; things that are foreseen by the side of others that are not foreseen? The honorable delegate does not think it incumbent upon him to deal with the intention which presided over the establishment of the system, but with the effect which that system has had.

[1] "Surtax"—difference between the rate of import duty on foreign sugar and that of the excise tax on domestic sugar.

What is the remedy to such a situation? The same as that proposed for the French system. If Russia would establish export duties on exported sugars, reserving, if need be, a certain quantity which would go out free of duty, the treasury would find a new source of income and the manufacturer would also be benefited.

To sum up, such a combination would be advantageous to both the treasury and the manufacturer, and the Russian consumer would not pay more than he did before.

Mr. Sebline declares himself deeply moved by the interest exhibited by the honorable delegate of the Netherlands for the manufacturer, the treasury, and the consumer in France. He had not proposed to answer his remarks concerning France, for on accepting in the last sitting that the propositions be submitted to the French Government by its delegates, or, better still, through the diplomatic channel, he had precluded himself from discussing them in the conference. But the honorable delegate of the Netherlands himself proved that the suggested remedy would bear absolutely no result.

Recalling the demonstration previously made by Mr. Sebline, that when an export bounty is granted the price of sugar rises in the producing country by the rate of the bounty, the Baron d'Aulnis de Bourouill demonstrated *a contrario* that if an export duty was imposed the price of sugar would be diminished by the amount of that duty. When the manufacturer places his sugar on the home market he will thus sell it at the price quoted on the English market, minus the export duty; when he ships it abroad the equivalent for the bounty that he may have earned at home will be taken away from him under the guise of export duty. The advocated system would therefore leave the French manufacturer without any advantage. Moreover, it is extremely complicated.

The honorable delegate of France can only wish that propositions be made to his Government through the diplomatic channel, but he doubts whether any device similar to that which has been considered be of such a nature as to hold the attention of the negotiators for any length of time.

Mr. Raffalovitch says that when the proposition of Baron d'Aulnis de Bourouill comes before the Russian Government it will no doubt be carefully examined, but as to himself he believes that the establishment of export duties is an artificial measure that has but slight chances of success at the end of the nineteenth century.

His Excellency Count Khevenhuller Metsch, delegate for Austria-Hungary, does not intend to reply to the various points of the statement read at the opening of the sitting by the first delegate of Russia. A single hearing of that statement would not afford a possibility of discussing it in its details. He will confine himself to remembering the passage relative to the cartel which has been agreed to among the Austro-Hungarian producers. He desires to repeat in that connection the declarations made by him in committee which, for that reason, could not be mentioned in the procès verbaux.

The cartel as it exists in Austria-Hungary is a private institution, which does not concern itself with sugar exportation, but with the common interests of the manufacturers and refiners in the interior. This organization is outside of the influence of the Government. Up to the present time no law has afforded the means of proceeding against that association, not any more than against similar cartels

organized by other industries. This cartel, after all, corresponds to that which existed in Russia before the intervention of the State. The Russian cartel had to resort to Government aid in order to put an end to the difficulties that it had made for itself.

Mr. Raffalovitch, answering the remarks made by Baron d'Aulnis de Bourouill, points out that in the Netherlands the areas sown with beet have increased 35 per cent, whereas in Russia the increase was only 11 per cent.

Mr. van Rossum, delegate of the Netherlands, says that the increase in his country is 22, not 35, per cent.

His Excellency Count Khevenhuller Metsch adds that it is but 2 per per cent in Austria-Hungary.

Baron d'Aulnis de Bourouill thinks that the conclusion that must be drawn from the figures cited by Mr. Raffalovitch is that the free-trade system, which stimulates private initiative by putting no restraint on individual freedom, can do more toward the development of cultivation and industry than an artificial system, which, by restricting the home consumption to a figure determined in advance, closes in a great measure the natural opening for national production; that is to say, the home market.

The president does not intend to discuss the formulas of conciliation submitted to the conference, and of which one has given occasion to the Baron d'Aulnis de Bourouill to present most interesting observations. He only wishes to make reservations on a point regarding which he can agree with neither the honorable delegate of the Netherlands nor Mr. Sebline; it is the question of the immediate effects of the export bounty on the price of sugar. Moreover, he is of opinion that the second formula analyzed by the Baron d'Aulnis de Bourouill would be much more favorable for French interests than Mr. Sebline thinks.

As regards Russia, the very lucid statement of the honorable the delegate of the Netherlands seems to be in accordance with the facts. The president believes that the passage of the definition of bounty which relates to surtaxes can be applied to the system established by Russian legislation. The passage, indeed, reads: "Advantages similar to those resulting from bounties can be derived from the disproportion between the rates of customs duties and that of consumption duties (surtaxes), especially in places where public authorities enforce, suggest, or encourage combinations among sugar producers."

It is obvious that Russian legislation incites such combinations by limiting the supply for home consumption.

It may be asserted that the surtax, considered by itself, exercises but secondary influence. It is a combination of surtax and limitation of supply that affords the cause for the enhancement of prices. Now, this enhancement reaches a high figure.

The sugar, after deducting the amount of the duty, costs twice as much in Russia as on the London market. Indeed, there is a difference of some 20 to 25 francs (about $4 to $5) between the Russian and English quotations. If to the latter there be added the amount of the premium bestowed on sugar exported to England, there still remains a difference of from 19 to 21 francs ($3.67 to $4.05) as a direct consequence of the limitation of supply.

As to Russian exportation, it is conceded that it is done below cost price. It is the inevitable result of the system whose tendency is to

encourage at once a larger production and the maintenance of the high prices at home. It is thus permissible to say that the Russian régime operates in the same manner as would a bounty premium properly so called. Such is the opinion expressed in all the special publications. This is what is said in the "La Sucrerie Indigène et Coloniale," number of June 24, 1898:

"* * * One begins to perceive that France is not the only country to receive indirect bounties, and that the official regulation of sugar quotation and delivery on the home market in Russia is nothing else but a perfectly indirect and undisguised premium. All the finest protests in the world will change nothing to the matter and will not make it appear that the Russian bounty is not a considerable one."

The paper "La Sucrerie Belge" (issue of the 16th of April, 1898), expresses itself in the same sense:

"* * * The premium gained by the sugar manufacturers in Russia, whose output is not more than 1,000,000 kilograms (2,204,600 pounds) of sugar, is thus 24.45 francs per 100 kilograms (2.14 cents per pound). As to other factories the premium is reduced in proportion to the amount of production so as to fall as low as 15 or 16 francs, which is the minimum (for large factories).

"As you see, Russian sugar legislation is very ingenious, and, I may even say, paternal. Not only does it guarantee to sugar manufacturers a very high indirect premium, but it protects them besides against the baleful consequences that an exaggeration of sugar quotations might have for themselves. For it is obvious that if the government did not limit the maximum price of sugar the exaggeration of the latter might bring about a decrease in consumption, and consequently the collapse of the bounty system itself.

"The only weak point of the Russian system is that it does not raise an insuperable barrier to the extension of production, and consequently to compulsory exportation; but the Government did not see fit to place the manufacturers under too absolute a tutelage.

"The result is that Russian sugar manufacturers, for the most part, export sugar even at a loss in order to be able to sell sugar at a higher rate to consumers. In the end it is a useless loss for all concerned."

The president observes that his object, in laying some stress on the situation which has just been defined, is solely to bring out with greater force the necessity of an agreement with Russia if it is desired to effect an international understanding. His most ardent wish is that a solution acceptable to all the countries represented may be arrived at.

Mr. Raffalovich pays tribute to the kindly views which seem to have inspired the remarks offered in regard to Russian legislation. He will make it his duty to lay them before his Government. He reminds the assembly, however, that the Imperial Government, while accepting to participate in the conference, declared its intention to bring no change in its custom or internal régime. He would not fail to communicate to St. Petersburg such resolutions as might be adopted by the conference in this respect, but he was precluded by his instructions from taking any part therein.

The discussion being apparently exhausted as to the points inserted on the order of the day, and no new question being raised, the president states that the conference has, for the time being at least, concluded its labors.

He expresses the opinion that the seven sittings that have been

devoted to the examination of the question of suppressing the bounties and of the points connected thereto have not been fruitless. An agreement has been completely, or nearly so, reached upon four points which are not without importance. The conference has defined the bounties, the abolition of which should be followed up. It has determined with precision the part that may be played by surtax; that is to say, the difference between the customs duty and the consumption duty. It has been in accord as to the régime to adopt for refining, supposing that an international arrangement would be concluded. Finally it has been agreed that, in the event of an agreement, each country should maintain the right to protect its home market.

While the accord on these four points is virtually absolute, there results, however, from the sum total of views exchanged that two currents have been clearly exhibited in the conference—one group including Germany, Austria-Hungary, Belgium, Spain, Great Britain, The Netherlands and Sweden would incline to an international agreement resting upon the ascertainment of the actual yield and upon the taxation of all sugars for home consumption with a suppression of direct and indirect bounties, provided, of course, that such an arrangement should be acceded to by all the States represented; the delegations of two other countries, France and Russia, without formally rejecting the idea of an agreement limited to points touching competition in outside markets, declare that they have received instructions forbidding them to accede to any arrangement the consequence of which would be to modify the internal régime of those countries.

We are then confronted by this alternative, either give up the prospect of an agreement and be content to proclaim the failure of the endeavors of the conference, or—and such, no doubt, will be the unanimous opinion of the delegations—persist in seeking the formula of a compromise which would enable the two countries who desire to maintain their internal legislation to do so while granting to other states certain guarantees from the point of view of the conditions of competition on the field of exportation.

Two ways are open before us in the second hypothesis. One would consist in an extension of the powers which would enable the delegates to seek an agreement on the basis that has just been indicated; the other one in intrusting one of the governments represented—Belgium, for example, as suggested by the Hon. Mr. Sebline—with the duty of entering upon negotiations in the same sense by means of direct correspondence with the other States.

His Excellency Count d'Alvensleben, gives in the name of the delegation of Germany, his assent to this latter proposition. He believes that his colleagues of the other delegations will agree with him to intrust the Belgian Government with the duty of opening diplomatic negotiations with the interested governments in order to find some device which would permit a subsequent resumption of the labors of the conference; it would not be closed but simply interrupted; it would be convened again as soon as the moment should seem favorable.

The delegations of Austria-Hungary, Belgium, Spain, France, The Netherlands, Russia, and Sweden declare in favor of the solution as just indicated.

In regard to Great Britain, his Excellency the Honorable Sir Francis Plunkett declares that the British delegation, while concurring in the proposition made by the honorable president, can only accept it ad

referendum, and with the express reservation that the Government of Her Britannic Majesty does not preclude itself from taking in the meanwhile such measures as might be suggested by the sugar situation.

After directing that these reservations be made of record, the president states that there is a unanimous desire that the labors of the conference be not finally closed. He adds that as soon as the negotiations that the Belgian Government is to open shall have sufficiently progressed to hold out a prospect of a solution, the conference will again be called.

The president announces that to his personal knowledge there is a new formula of conciliation in course of preparation. The text thereof will be annexed to the procès verbal of this sitting.

His Excellency the Honorable Sir Francis Plunkett, delegate of Great Britain, having raised the question of knowing whether the procès verbaux will be kept secret or, on the contrary, may be published, an exchange of views in which, besides the president, His Excellency Count d'Alvensleben, His Excellency Count Khevenhuller Metsch, Messrs. Sebline and Raffalovich, delegates of Germany, Austria-Hungary, France, and Russia, participate, takes place on this occasion.

It is resolved that each one of the represented governments will in this respect take such decision as it may see fit, it being, of course, understood that it will be after the publication in its final form of the procès verbal of the last sitting.

Mr. Sebline delivers the following address:

"It has been too often my very keen regret in the course of this conference to find myself in the minority of this assembly. It will afford me a very high gratification to close our labors with a motion which I feel sure will receive the unanimity of your votes.

"I should like to thank most particularly, in the name of the whole assembly, its honorable president for the kindness, the courtesy with which he has presided over our labors. His elevated, comprehensive mind constantly soared over our debates. We are indebted to the elevation of views which he constantly displayed in the discharge of his delicate duties for the partial agreement which he has just stated. If the conference remains open, if there remains a possibility for an ultimate agreement, we must ascribe all the honor to his excellency the minister of finance.

"We have also been deeply moved by the cordial hospitality which has been extended to us on this Belgian land, hospitable among all others, as well as by the attentive reception that has been extended to us by the members of the Government.

"We are still under the charming impression of the august reception with which the King condescended to honor the members of the conference. I am sure that I am the interpreter of the sentiments of the whole assembly in praying your excellency to transmit to His Majesty the homage of our deep gratefulness."

These words are received with unanimous applause.

The president answers as follows:

"I shall not fail to report to the King the words of the Hon. Mr. Sebline, and I may assure the conference that the sentiments that the assembly has just exhibited will be most gratifying to His Majesty.

"I am deeply moved by the kindness, much too great, with which the first delegate of France has expressed himself toward your president; if there remains a prospect of a favorable issue for the confer-

ence, it is indebted therefor to the spirit of conciliation of all the delegates. I express the hope that I shall see again in Brussels within the briefest possible period the delegates among whom I have passed days, whose memory will always be precious to me; with that hope I declare the first session of the conference at an end."

The sitting is adjourned at 5 o'clock.

President:

M. DE SMET DE NAEYER.

The secretaries:

J. JANSSENS.
J. BRUNET.

ANNEX TO THE PROCES-VERBAL OF THE SEVENTH SITTING.

Without prejudice either to the ideas advanced in the conference, or to the results achieved in consequence of the debates, several delegates believe that a new effort might be made with a view of diminishing the tension existing between the divergent opinions.

Would it not be possible, pending a more complete understanding, to reach an agreement based upon a proportional reduction of the bounties? To that end, it would be necessary to refer to the situation of the sugar market such as it existed before the recent increase of the bounty in Germany without, however, simply going back to the past.

1. Germany would decrease its present bounty; she would maintain a bounty that would exceed that of 1896 by a fraction.

2. Austria-Hungary would maintain their legislation, but would decrease proportionately to the German reduction the total sum set apart for export bounties, nine million of florins.

3. Belgium would modify her legislation in the direction of the taxation of the yield; she would be authorized to grant a bounty equal to that of Germany.

4. The Netherlands would decrease the present bounty to the rate of the new Germany bounty.

5. France would abolish direct bounties; she would maintain her internal legislation in its present state.

6. Russia would decree that the quantity of sugar that the factories be allowed to supply for home consumption, under payment of the simple tax, shall henceforth be allotted, in advance, for instance, according to a scale based upon the production of the preceding years, so that factories would not longer find themselves compelled to export.

It would be understood that Russian exports to Finland, Central Asia, and Persia, would not be affected.

7. Spain and Sweden would maintain their legislations; they would engage not to grant drawbacks to exports.

This arrangement would come into operation on the 1st of September, 1899, and hold good for the term of three years.

CONDENSED STATEMENTS OF SUGAR LEGISLATIONS AND STATISTICAL TABLES, SHOWING FOR THE PERIODS 1883 TO 1897 THE PRODUCTION, IMPORTATION, EXPORTATION, AND CONSUMPTION OF SUGAR, TOGETHER WITH THE REVENUE DERIVED FROM THAT STAPLE.

[Notices furnished by the Governments.]

GERMANY.

Law of May 27, 1896.

Native beet sugar is subject to a consumption tax (sugar tax). In order to insure the collection of that tax, sugar is placed under the supervision of the revenue until it is admitted to free circulation in the country, or, when exported, up to the time when it shall have gone beyond the customs frontier.

The sugar tax is fixed at 20 marks per 100 kilos net. Beet juices and waste in manufacturing are not liable to the tax. However, the Federal Council, under reservation of subsequent approval by the Reichstag, may apply the tax in whole or in part to these substances.

The sugar tax must be collected as soon as the sugar is taken from the supervision of the revenue to enter into free circulation. The tax is to be paid by such person as acquires the right of freely disposing of such sugar.

Sugar exported under the supervision of the revenue is exempted from the payment of the tax. Sugar exported without the supervision of the revenue is not entitled to any refundment of the tax.

According to the provisions to be enacted by the Bundesrath:

(1) In case of exportation of products of which native beet sugar is component part, or in case of such products being stored in bonded warehouses, the revenue may waive the collection of the tax on the quantities of sugar so used, or else return the amount of the tax already collected.

(2) Native beet sugar used for cattle food or for the manufacture of products not destined for consumption may be exempted from the tax.

Sugar provided for in No. 2 must be denaturalized with the cooperation of the revenue.

Within the meaning of the law all establishments destined for the production of crystallized beet sugar, exclusive of such establishments as only operate beet products already taxed, are considered to be sugar factories. The Federal Council will determine in what measure other factories are also to be considered as sugar factories.

Sugar factories must be so built as to enable the revenue authorities to supervise the course of manufacturing, and check the produced quantities until they are taken out of the factory, and so that they will be security against sugar being surreptiously shipped. Factories are placed under the permanent surveillance of revenue officers.

There is laid upon sugar a surtax (tax of operation) according to the quantities annually produced and taken out of the factory. This

operation tax amounts to 0.10 mark per 100 kilos of raw sugar for a yearly production amounting to 4,000,000 or less; to 0.125 mark for a yearly production from 4,000,000 to 5,000,000 kilos; to 0.15 mark for a yearly production of from 5,000,000 to 6,000,000 kilos, so that for each million or fraction of a million of kilos, the increase of tax is 0.025 mark per 100 kilos.

If the sugar is taken out of the factory in any other form than that of raw sugar, the product is computed as of raw sugar according to the prescriptions of the Federal Council. The sugar taken in under revenue surveillance will be deducted from the quantity taken out of the factory.

Beet juices and wastes in sugar manufacturing will not be subject to the operating tax.

In addition there is determined every year for each factory, according to the output of preceding years, a certain quantity of sugar (contingent) beyond which the operation tax is augmented by an additional tax of 2.50 marks per 100 kilos.

The operation and additional taxes must be paid as soon as the sugar is taken out of the factory. The manufacturer is responsible for the payment. There can be neither exemptions nor moderations. The admissible total of contingents was fixed at 1,700,000,000 kilos of raw sugar to the season of 1896–97. At each new season this total is increased by twice the amount of the increase of home consumption between the two preceding years. Sugar that is entered for internal trade after payment of duties is considered to have been consumed.

If the admissible total so computed for one year exceeds the aggregate of contingents fixed for the same year for the several factories separately, these latter contingents are raised in proportion, and in the opposite case they are proportionately reduced.

The Federal Council may increase the aggregate of contingents by 2 per cent in order to promote the erection of new factories exclusively destined for the extraction of sugar contained in molasses.

When sugar is exported or stored in bonded warehouse under administrative surveillance, the following bounties are granted for minimum quantities of 500 kilos:

	Marks.
(*a*) On raw sugar containing at least 90 per cent and on refined sugar containing at least 90 per cent but less than 98 per cent of polarization..per 100 kilos..	2.50
(*b*) On candied sugar, on white full and hard sugar in the shape of loaves, blocks, slags, sticks, or cubes, on sugar in white, hard, and translucent crystals, containing at least 99½ per cent of polarization.....per 100 kilos..	3.55
(*c*) On all other kinds of sugar containing at least 98 per cent of polarization, per 100 kilos	3.00

The Federal Council may also allow export bounties to certain articles containing sugar.

The payment of the bounties must be effected six months after the exportation or warehousing of the sugars. If the sugar is taken out of the warehouse to be put upon the free circulation of trade or taken into a factory, the bounty must be reimbursed.

Subject to the sanction of the Reichstag, the Federal Council is empowered temporarily or finally to reduce the rate of these bounties and even suppress them entirely as soon as other countries producers of beet sugars that are now granting bounties for production or exportation of sugar shall have reduced or have abolished the said bounties. In that event the sugar tax will be diminished proportionately to the amounts saved on the export bounties.

The customs duties on solid or liquid sugars of all kinds is 40 marks per 100 kilos. Beet juices, boiled lumps, and drippings (sirups, molasses) are classified as sugar.

When the foreign sugar is shipped under revenue surveillance to a native factory there to be operated upon anew, the revenue authorities may collect a custom duty reduced by 20 marks and treat such sugar as native beet sugar that has not yet paid any tax.

Rates of customs duties, taxes, and export bounties.

[In marks and per 100 kilos net.]

Customs duties on solid or liquid sugars of all kinds.	Tax (consumption tax).*	Export bounties.			Observations.
		Raw sugar having at least 90 per cent and refined sugar having at least 90 per cent, but less than 98 per cent. of polarization.	Candied and solid and hard white sugar in loaves, etc., of at least 99 per cent of polarization.	All other sugars of at least 98 per cent of polarization.	
40	20	2.50	3.55	3.00	*Over and above the consumption tax the revenue collects: (1) A manufacturing tax on the quantities taken out of the factories. This tax amounts, per 100 kilos of raw sugar or less, to 0.10 mark for a yearly production of 4,000,000 kilos, to 0.125 mark for a yearly production of 4,000,000 to 5,000,000 kilos, to 0.15 mark for a yearly production from 5,000,000 to 6,000,000 kilos, and so on, an increase 0.25 mark being made for each additional million of kilos or fraction thereof. (2) An additional tax equal to the export bounty on raw sugar, say 2.50 marks per 100 kilos, for quantities produced in each factory over and above its allotment.

Production, importation, exportation, consumption, and amount of taxes collected.

Seasons.	Production (raw sugar).	Importation.		Exportation.		Consumption of domestic sugar (raw sugar).	Amount of duties and taxes collected (less export bounties).
		Raw sugar.	Refined sugar.	Raw sugar.	Refined sugar.		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Quintals.	*Quintals.*	*Quintals.*	*Quintals.*	*Quintals.*	*Quintals.*	*Marks.*
1883–84	9,606,093	18,763	15,577	4,911,761	941,148	3,648,015	47,789,000
1884–85	11,467,303	20,668	12,613	5,537,951	1,079,006	4,730,073	39,369,000
1885–86	8,381,049	26,203	12,300	4,040,715	865,885	3,377,875	24,492,000
1886–87	10,182,816	15,675	14,618	4,896,801	1,542,617	3,571,582	33,624,000
1887–88	9,588,635	40,789	15,799	3,447,108	1,529,566	4,441,463	14,677,000
1888–89	9,308,909	20,164	19,078	4,124,242	1,798,024	3,428,173	30,095,000
1889–90	12,613,534	21,091	16,334	4,938,309	2,252,283	4,931,153	80,559,000
1890–91	13,362,214	36,940	27,607	4,882,404	2,357,589	5,160,205	75,760,000
1891–92	11,980,257	42,198	34,993	4,366,717	2,305,978	5,213,109	72,042,000
1892–93	12,308,347	9,370	10,054	4,247,447	2,706,073	5,551,728	52,215,000
1893–94	13,660,013	5,999	4,482	4,366,745	2,613,437	5,733,423	82,231,000
1894–95	18,279,735	7,330	4,482	6,096,626	3,917,166	6,157,203	85,714,000
1895–96	16,370,573	7,648	4,646	5,044,447	4,074,472	7,429,451	103,701,000
1896–97	18,212,232	6,653	7,805	7,606,571	4,263,049	5,603,495	86,894,000

The sums in column 7 show, for the years 1883–84 to 1887–88, the difference between the quantities produced and the quantities exported, and for the following seasons the quantities put into free circulation after payment of the duties.

NOTE.—One mark equals 23.8 cents; 1 metrte quintal equals 220.46 pounds.

AUSTRIA-HUNGARY.

The sugar fiscal legislation, identical in the two States of the Austro-Hungarian Monarchy, is governed in Austria by the Austrian laws of June 20, 1882, and July 5, 1896, and by the imperial decree of August 24, 1897, and in Hungary by articles 23, 19, and 29 of the Hungarian laws of the years 1888, 1896, and 1897.

The consumption tax on beet and all other sugars (cane sugar) in refined condition, except sirup unfit for human consumption, was raised from 11 to 13 florins per 100 kilos net during the period running from August 1, 1896, to July 31, 1898.

The consumption tax is collected as soon as sugar is withdrawn from official supervision to be put into free circulation.

The consumption tax is not to be collected on sugar exported beyond the customs line under official supervision, nor on that which is stored in some part of the factory to be completed, or that is stored in a private warehouse.

In case sugars of the kinds above mentioned are exported there is granted a moderation of—

(*a*) 1.50 francs per 100 kilos of sugar polarizing from 88° to less than 93°.

(*b*) 1.60 florins per 100 kilos of sugar polarizing from 93° to less than 99½°.

(*c*) 2.30 florins per 100 kilos of sugar polarizing 99½° at least.

If the total amount of bounties granted to exported sugars from the customs-house territory of Austria-Hungary during a season (from the 1st of August of one year to the 31st of July the following year) should exceed the sum of 9,000,000 florins[1] all the producers of sugar as above specified would be held to return the surplus.

The refundment will be made in accordance with the following provisions, viz:

1. For all quantities taken out of each establishment the amount of the bounties that would be coming to them at the time of exportation would be computed.

There would be deducted therefrom the bounties reckoned for sugars produced in other sugar-making countries that have been taken into the establishment during the season.

2. The sums thus found for each establishment will be added up, and from the total amount there will be computed the quota that each florin will have to bear of the aggregate amount to be returned to the treasury.

3. According to the quota bearing upon each florin of the bounties, the amount that each establishment will have to return will be ascertained on the basis of the results given by the computation indicated at No. 1.

During the seasons preceding that of 1896–97, at the time when the maximum of the aggregate of bounties was fixed at 5,000,000 florins, the amount of these refundments was—

(*a*) As regards Austria during the season:

	Florins.
1888–89	300,394.38
1889–90	2,639,586.20
1890–91	3,376,354.27
1891–92	3,265,358.18½
1892–93	3,678,827.65
1893–94	4,131,590.63
1894–95	3,609,239.10
1895–96	3,941,954.88

[1] 5,000,000 florin for the seasons preceding that of 1896–97.

(*b*) As regards Hungary during the season:

	Florins.
1888–89	22,720.79
1889–90	188,709.17½
1890–91	388,904.90½
1891–92	412,270.07
1892–93	461,788.71
1893–94	568,312.04
1894–95	453,495.22
1895–96	731,980.12

During the season 1896–97, for which the maximum of the bounties had been fixed at 9,000,000 florins, the amount to be refunded to the treasury aggregated 1,803,596.21 florins for Austria and 316,614.97 florins for Hungary.

Customs duties are payable in gold and rated as follows:

	Florins.
Raw sugar:	
Below Dutch standard No. 19	15
Dutch standard No. 19 and above	20
Refined sugar	20
Dissolved sugar	20
Sirup	15
	6

Before the present law came into operation—that is, before August 1, 1888—the customs duty on beet sugar was based on the power of the extracting apparatus and settled by the quintal of beets operated on.

Following is the actual amount of quantities of beets taxed:

Season.	In Austria.	In Hungary.	Total.
	Quintals.	*Quintals.*	*Quintals.*
1882–83	46,268,050	2,559,753	48,827,803
1883–84	39,238,647	2,607,031	41,845,678
1884–85	41,039,888	2,362,013	43,401,900
1885–86	24,419,431	1,731,597	26,151,028
1886–87	40,403,435	2,467,438	42,870,873
1887–88	30,421,382	1,841,879	32,263,261

NOTE.—One quintal equals 220.46 pounds.

The receipts on that head amounted to—

Season.	In Austria.	In Hungary.	Total.
	Florins.	*Florins.*	*Florins.*
1882–83	37,014,440	2,047,802	39,062,242
1883–84	31,390,917	2,085,625	33,476,542
1884–85	32,831,910	1,889,610	34,721,520
1885–86	19,535,545	1,385,263	20,920,808
1886–87	32,322,748	1,975,960	34,298,698
1887–88	24,337,106	1,473,503	25,810,609

NOTE.—One florin equals 40.5 cents.

During the same period the receipts collected in Austria-Hungary,

(*a*) Under the head of consumption tax on the manufacture of beet sugar; and

(*b*) Under the head of customs duties on raw and refined sugars aggregated the following sums:

	Florins.
1882–83	10,800,000
1883–84	11,200,000
1884–85	11,600,000
1885–86	12,000,000
1886–87	12,400,000
1887–88	12,800,000

NOTE.—One florin equals 40.5 cents.

Lastly, the imports and exports of sugar during the same years are mentioned in the following table:

Season.	Imports.			Exports.		
	Raw sugar.	Refined sugar.	Total.	Raw sugar.	Refined sugar.	Total.
	Quintals.	*Quintals.*	*Quintals.*	*Quintals.*	*Quintals.*	*Quintals.*
1882–83	205	377	580	1,386,733	1,304,594	2,701,327
1883–84	84	376	460	1,115,600	1,283,725	2,399,325
1884–85	103	277	380	2,174,954	1,320,158	3,495,112
1885–86	117	265	382	689,908	1,191,512	1,881,415
1886–87	104	229	333	1,020,250	1,724,331	2,744,581
1887–88	56	259	315	507,260	1,262,885	1,770,145

NOTE.—One quintal equals 220.46 pounds.

Manufacture, importation, exportation, and consumption of sugar, amounts charged to accounts of refiners, and amount of receipts under the head of consumption tax, seasons 1888–89 to 1896–97.

1.	2.		3.		4.		5.		6.
Season from August 1 to July 31.	Production.		Importation.		Exportation.		Sugars taken out of the factories and private warehouses upon payment of the consumption tax.		Amount of the consumption tax collected on the quantities of sugars indicated in column 5.
	Sugar for consumption.	Raw sugar.	Sugar for consumption.	Raw sugar.	Sugar for consumption.	Raw sugar.	Sugar for consumption.	Raw sugar.	
Austria—	*Quintals.*	*Quintals.*	*Quintals.*	*Quintals.*	*Quintals.*	*Quintals.*	*Quintals.*	*Quintals.*	*Florins.*
1888–89	3,181,565	1,255,480	150	56	1,359,353	1,208,362	1,565,155	8,350	17,308,558
1889–90	4,706,990	1,391,000	170	48	2,306,609	1,303,645	2,300,447	19,107	25,515,098
1890–91	4,469,622	1,962,707	160	69	2,168,119	1,983,953	2,154,234	13,161	23,841,346
1891–92	4,240,924	2,157,171	124	28	2,112,638	1,977,339	2,208,304	15,417	23,450,932
1892–93	5,085,427	1,395,313	72	27	2,677,649	1,463,286	2,409,030	23,670	26,759,390
1893–94	5,862,800	711,783	296	75	3,414,023	685,512	2,306,281	20,417	25,593,675
1894–95	6,599,002	1,993,677	201	17	3,245,304	529,140	2,791,931	21,942	30,962,613
1895–96	5,604,767	184,461	109	75	2,708,678	1,289,635	2,809,362	34,355	31,310,543
1896–97	6,076,252	1,114,413	.....	.....	3,771,685	625,309	2,582,962	28,468	33,298,390
Hungary—									
1888–89	338,811	44,641	54	.....	144,064	26,467	144,361	2,140	1,611,501
1889–90	480,204	35,629	142	2	149,984	31,477	262,784	3,871	2,933,195
1890–91	549,945	120,309	61	.....	172,696	109,722	373,817	4,339	4,159,712
1891–92	593,887	190,555	84	.....	164,023	167,852	424,791	4,244	4,719,393
1892–93	645,617	158,772	151	.....	175,709	181,705	458,065	2,788	5,069,385
1893–94	719,342	288,424	25	.....	187,514	213,504	479,474	2,143	5,297,788
1894–95	795,120	208,042	28	.....	271,211	91,811	457,306	2,209	5,061,266
1895–96	849,074	426,632	251	.....	343,609	368,249	543,245	2,955	6,022,589
1896–97	857,923	470,117	182	.....	400,706	389,550	462,356	5,356	6,079,992

NOTE.—One quintal equals 220.46 pounds; 1 florin equals 40.5 cents.

BELGIUM.

FOREIGN SUGARS.

Sugars imported from abroad are classified in two distinct categories. One class is subject to customs duties; the other, exempt from such duties, is subject to excise duty.

Sugars subject to customs duties (per 100 kilos).

	Francs.
Refined sugars:	
Candied—	
First class	59.00
Second class	58.00
Third class	56.50
Fourth class	54.70
Fifth class, known as "Manqués" (defective)	45.00

Refined sugars—Continued.	Francs.
In loaves or lumps	51.13
Pulverized, sugars known as white powders and other similar products specified in the customs tariffs	50.56
Raw sugars:	
Above No. 18	50.56
Other raw sugars	Free.
Sirups and molasses made from the manufacture or refining of sugar:	
Of a saccharine richness less than 50 per cent	18.00
Of a saccharine richness of 50 per cent or more	36.40

These sugars may be entered (a) for consumption under cash payment of the duties; (b) for bonded warehouse.

Sugar subject to excise duties (per 100 kilos).

Raw sugars:[1]	Francs.
Cane, above No. 18	50.56
Cane or beet—	
First class, from No. 15 to No. 18, inclusive	47.53
Second class, from No. 10 to No. 15, exclusive	45.00
Third class, from No. 7 to No. 10	40.95
Fourth class, below No. 7	36.40

The sugars may be entered: (*a*) for consumption; (*b*) for credit account on time; (*c*) for bonded warehouse.

Foreign raw beet sugar can not be entered on any other credit account on time than that of a merchant. A surtax on the amount of customs or excise duties is collected on refined sugars, "vergeoises," and raw cane and beet sugars from abroad.

The Government determines the rate of surtax, which can not be less than 10 per cent nor more than 15 per cent of the amount of the customs or excise duty.[2]

NATIVE BEET SUGARS.

The taxation is based on the volume and specific gravity of beet juice. The "prise en charge" (quantities charged to the manufacturer) are reckoned at the rate of 1,900 grams for 100 liters of juice and per degree of specific gravity.

Manufacturers are also subject to an additional *prise en charge* of 5.5 or 7.4 per cent of the original prise en charge when they use the process of osmose or that of separation to extract sugars from molasses manufactured by them. The whole amount of the juice produced goes through the gauging vessels; to that effect the law lays upon the manufacturers the most stringent obligations as to the erection of the apparatuses. Each one of the gauging vessels is fitted with a mechanical meter, which records the number of the loadings and with an apparatus which stores at each operation a constant quantity of juice from which to effect a checking of specific gravities.

Before beginning operations, the manufacturers must furnish a bond to secure the payment of the excise duties. The rate of the excise duty on native beet sugar is fixed at 45 francs per 100 kilos, corresponding to the duty levied on foreign raw sugar of the second class. The manufacturer is bound to declare on the 15th of each month, at the latest, the amount of raw sugar charged to his account during the preceding month, viz:

[1] Refined sugars, known as vergeoises (sugar made from waste), muscovado, or bastard, are assimilated to raw sugars in regard to the rate of duty. Melada is assimilated to raw sugars of the fourth class.

[2] By royal decree of the 12th of September, 1895, the rate of the surtax was fixed at 10 per cent.

1. For consumption—(*a*) under cash payment of the duties; (*b*) to his credit account on time.

2. For bonded storing in his own or a public warehouse.

SUPERVISION.

During all the time of the operations a guard, consisting of a chief and at least four employees (two of whom remain there permanently), oversees every sugar factory; the chief makes frequent inspections. These employees, who are frequently changed, are under the surveillance of the ordinary excise bureau, the itinerant divisions, controller of the division, the provincial inspector, and a special service of inspectors attached to the central administration.

PROVISIONS THAT ARE COMMON TO FOREIGN AND NATIVE SUGARS.

A credit account on time for the payment of the excise duties may be opened: (*a*) To dealers in raw sugars; (*b*) to refiners and manufacturers; (*c*) to manufacturers of confectionery, such as chocolates, sugar-coated nuts, sugared pastry, etc.; (*d*) to manufacturers who are allowed to enjoy a complete exemption from excise duties on sugars used in the manufacture of preserves, fruit jams, etc.

The prise en charge entered into the credit account on time is always secured by a bond.

The term of credit is fixed at two months. The credit accounts on time are debited with the quantities of sugar imported or taken out of warehouses or factories.

They are credited:

In the case of merchants by the payment of the matured terms.

In the case of sugar manufacturers and the native sugar refiners: (1) by the payment of matured terms; (2) by transfer of the taxes with the delivery of sugars to the account either of a wholesale merchant or of a manufacturer of chocolates, sugar-coated nuts, sugared pastry, etc., who are admitted to export these products with a total or partial exemption from the excise duty on the sugar used in their trade; or of a manufacturer of preserves, fruit jams, enjoying total exemption from excise duties on sugars used by him; (3) by exportation with exemption from the excise duty on raw or refined native sugars; (4) by exportation with total or partial exemption from the excise duty on sugar used in the manufacture of chocolates or other sugared products; (5) by storing in public bonded warehouses the raw or refined native sugar.

As to foreign sugar refiners: (1) By payment of matured terms; (3) by storing of refined sugars in public bonded warehouses.
(2) by exporting with crediting of the excise duty on refined sugars;

For manufacturers of chocolates, sugar-coated nuts, sugar pastry, etc.: (1) By payment of matured terms; (2) by exportation with total or partial crediting of the excise duty on the sugar used in the manufacture of the said sugared products.

For manufacturers of preserves, fruit jams, etc.: (1) By the payment of matured terms; (2) by crediting of the excise duty on the sugar used in the preparation of the aforementioned products.

The crediting of the excise duties on exports is determined as follows (per 100 kilos).

	Francs.
Refined sugars:	
Candied—	
First class	59.00
Second class	58.00
Third class	56.50
Fourth class	54.70
Fifth class, known as "manqués"	45.00
In loaves or lumps	51.13
Pulverized and sugars known as white powders	50.56
Muscovado, bastard "vergeoises," and other refined sugars of inferior quality; that is to say, loaf sugar of a reddish or yellowish tinge—	
First class, Nos. 15 to 18, inclusive	47.53
Second class, Nos. 10 to 15, exclusive	45.00
Third class, Nos. 7 to 10	40.95
Fourth class, below No. 7	36.40
Native raw sugars, not damp:	
No. 11 and above	45.00
Nos. 8 to 11, exclusive	40.95

These rates correspond to the excise or customs duties. They are computed for refined sugar in loaves or lumps on the basis of a yield of 88 kilos and for other sugars on the basis of a yield of 89 kilos per 100 kilos of native raw sugar or foreign sugar of the second class liable to a 45-franc duty.

The crediting of the excise duty is granted in case of exportation to the sugar contained (*a*) in chocolates; (*b*) in sugar-coated nuts and other confectioneries; (*c*) in jams and preserves; (*d*) in candies, sugared pastry, and other sugared products.

The rate of crediting applicable to the quantities of sugar contained in these products is 50.56 francs.

Article 7 of the law of August 9, 1897, allows the crediting of the excise duty for sugars used in the manufacture of preserves, jams, jellies, or sirups, whether these products be destined for export or home consumption.[1]

MINIMUM OF COLLECTION.

The minimum proceeds of excise and customs duties on sugars are fixed at 6,000,000 francs.

For the year 1898 the minimum amount in question is reduced exceptionally to 5,000,000 francs.

The customs duties on beets[2] and sirups and molasses are added to the customs duties and excise duties on sugars to make up the minimum amount of revenue.

When the minimum amount of revenue is not realized at the end of the year the deficiency is distributed by the minister of finance at so much per cent of the "prise en charge" entered into the accounts of sugar manufacturers.

The quota ascribed to each manufacturer can not be used in the liquidation of his manufacturing, bonded warehouse, or credit accounts.

If the legal minimum is exceeded, the surplus is carried over as receipts in the accounting for the following season.

[1] Article 5 of the revenue law of December 28, 1897, makes this régime applicable to sugars used in the manufacture of condensed milk and powdered milk.

[2] This duty is fixed at 1 franc per thousand kilos by article 2 of the law of August 9, 1897. The duty will not be collected until the 1st of July, 1899.

Production, importation, and exportation of raw and refined sugars—proceeds of collections.

Years.	Domestic production.[1]	Importation.		Exportation.		Collections.
		Raw sugar.	Refined sugar.	Raw sugar.	Refined sugar.	
	Kilograms.	*Kilograms.*	*Kilograms.*	*Kilograms.*	*Kilograms.*	*Francs.*
1883	106,586,473	16,974,874	6,921,376	95,643,724	9,653,795	8,601,579
1884	88,462,697	16,413,568	6,142,862	58,451,249	9,285,472	7,234,571
1885	48,420,914	14,104,898	2,748,097	62,158,667	8,759,051	6,170,282
1886	91,119,548	12,025,155	1,038,249	87,999,037	10,391,205	6,037,761
1887	93,571,568	13,692,811	650,613	94,837,553	16,731,606	5,974,457
1888	95,803,780	13,235,876	405,254	68,254,872	19,691,857	6,021,422
1889	173,042,728	11,922,935	402,487	153,288,186	22,560,258	5,554,046
1890	159,114,535	13,574,146	389,785	135,889,310	21,890,469	6,486,456
1891	140,376,685	12,718,768	410,419	108,634,209	24,677,822	6,001,900
1892	143,698,933	12,934,763	1,068,951	101,088,349	29,948,106	6,305,776
1893	188,326,680	10,970,083	830,865	170,606,865	38,171,068	6,019,562
1894	208,956,865	9,143,563	593,583	95,841,466	27,887,185	6,527,285
1895	182,247,856	9,858,942	518,478	124,006,197	48,234,006	6,500,000
1896	235,041,825	9,258,948	468,031	127,404,481	52,596,104	6,505,210
1897	212,040,585	9,768,479	377,704	179,042,003	56,985,685	6,061,196

[1] The figures relative to the production of sugar are approximate, the taxation being assessed on the presumed yield. For the same reason it is impossible to state precisely the quantity of sugar consumed in Belgium.

SPAIN.

CONSUMPTION TAX.

Revenue law for the fiscal year 1892–93.—Article 9. In place of the taxation now existing under the denominations of transitory and municipal, of Peninsular national production, an internal revenue bearing the character of a consumption tax will be levied in the following manner (per 100 kilos):

Sugar and glucose:	Pesetas.
Foreign	50.00
Produced in our provinces and possessions beyond the seas	33.50
Peninsular production	20.00

The payment of this tax is effected in the custom-house as regards sugars coming from abroad and beyond the seas. As regards sugars of Peninsular production, the tax is owed by the manufacturers. It is assessed on the quantity of sugar produced, and it is computed at the rate of 5 per cent of the quantity of canes or beets worked in the factories. The Government is authorized to make arrangements for four years with the Peninsular sugar manufacturers by estimating the production at 25 tons per hectare and the yield at 5 per cent.

The exporters of sugars refined in the Peninsula who adduce previous evidence, by means already provided for or to be provided by the administration, that the exported refined sugar was made of native or colonial sugars and molasses may demand the return of the tax paid on the raw material, with 20 per cent added on account of waste and freight rates, provided that they shall show by means of a consular certificate that the products of their refineries have been delivered in a foreign place or port.

If the exporters do not care to receive directly the amount of the drawback hereinbefore mentioned and entered upon the credit document which is issued to them by the administration of finance, credit is given to them therefor against the payment of duties that they

should have to pay by virtue of this law on importing sugars from provinces and possessions beyond the seas.

* * * * * * *

The foregoing provisions have been modified by the revenue law of August 30, 1896, article 5 of which reads as follows:

ART. 5. Article 9 of the revenue law of 1892–93 and 71 of that of 1893–94, relative to the taxation of sugar and glucose and empowering the minister of finance to increase by 20 per cent the quantity corresponding to the number of hectares of ground, on which each previous arrangement was based, when he renews at their respective expirations the arrangements in force as well as those concluded on the 30th of June last with Peninsular sugar manufacturers, remain in force.

Manufacturers of sorghum sugar will be taxed on the basis of 15 tons of the plant per hectare of ground and at the rate of 2 per cent of the richness in sugar.

CUSTOMS DUTIES.

Foreign sugar pays, upon being entered into the Peninsula and the Balearic Islands, 32.35 pesetas per 100 kilos. (Item 306, p. 142, of the tariff.)

Foreign sugar pays in addition to the customs, by way of tax equivalent to the consumption tax, 50 pesetas per 100 kilos. ("Tarification," 5 A, p. 163, of the tariff.)

The aggregate amount of the two duties is therefore 82.25 pesetas per 100 kilos.

CONSUMPTION.

The consumption is 80,000,000 kilograms. This estimate is based on the fact that the average yearly importation into Spain is 47,000,000 kilograms and the production 33,000,000 kilograms (10,000,000 kilograms cane sugar, the remainder beet sugar).

General statement of sugar imports and exports during the last fifteen years.

Years.	Importations.				Exportations.
	From abroad.	From Cuba and Porto Rico.	From the Philippines.	Total.	
	Kilograms.	*Kilograms.*	*Kilograms.*	*Kilograms.*	*Kilograms.*
1883	18,899,445	18,203,943	7,421,339	44,524,727	.....
1884	22,145,140	23,201,137	8,648,069	53,994,346	.....
1885	5,175,516	43,747,173	4,161,617	53,084,306	56,030
1886	2,751,120	49,535,303	5,281,315	57,567,738	.....
1887	1,387,473	46,968,982	4,402,729	52,759,184	.....
1888	429,068	43,826,562	4,579,196	48,834,826	12,130
1889	218,024	48,042,892	5,840,780	54,101,776	7,220
1890	851,602	72,100,479	3,273,319	76,225,400	5,649
1891	730,891	47,717,591	1,870,458	50,318,940	9,227
1892	1,636,255	72,008,021	2,843,975	76,488,251	23,130
1893	1,679,442	20,947,127	2,828,512	25,455,081	5,285
1894	1,262,683	37,345,105	3,986,528	42,594,316	282,042
1895	925,948	40,706,473	5,298,953	46,929,374	174,184
1896	925,036	33,190,446	3,618,118	37,731,600	33,529
1897	28,646	25,284,572	2,751,732	28,064,950	22,324

Receipts yielded by the importation of sugars from all origins.

Years.	Customs duties.	Consumption tax.	Total.
	Pesetas.	*Pesetas.*	*Pesetas.*
1883	6,116,988	9,612,899	15,729,887
1884	6,672,645	11,584,648	18,257,293
1885	1,551,429	12,531,542	14,085,971
1886	858,261	10,392,434	11,250,695
1887	437,657	9,418,616	9,856,273
1888	162,786	5,221,920	5,384,706
1889	69,690	9,674,004	9,743,694
1890	65,022	13,495,721	13,560,743
1891	49,783	8,957,429	9,007,212
1892	15,642	11,753,478	11,769,120
1893	9,337	8,804,560	8,813,897
1894	20,627	14,477,439	14,498,066
1895	23,747	15,873,791	15,897,538
1896	11,170	12,792,387	12,803,557
1897	9,238	9,406,484	9,415,722

NOTE.—One kilogram equals 2.2046 pounds; 1 peseta equals 19.3 cents.

FRANCE.

I.—TARIFF AND METHOD OF LIQUIDATION OF THE DUTIES.

1. INTERNAL TARIFF.

The duties on sugars are at present collected according to the following tariffs:

	Francs.
(*a*) Tariff common to sugars of all origins:	
Raw and refined sugars, per 100 kilograms of refined sugar	60.00
Candied sugars, per 100 kilograms	64.20
Sugar used for sweetening wines, ciders, and pear ciders, per 100 kilograms of refined sugar	24.00
(*b*) Sugar representing either the surplus of yield or the waste from manufacturing in home factories, or the waste from manufacturing allowed to French colonies, per 100 kilograms of refined sugar	30.00
Native glucose, per 100 kilograms	13.50

N. B.—Sugars shipped to Corsica only pay one-half of the duties stated in the tariff. (Law of April 21, 1818.)

In addition to the taxes hereinabove mentioned, sugars from all origins pay:

1. A manufacturing tax of 1 franc per 100 kilos of refined sugar if it is placed on the market for consumption as raw sugar.

2. Or a refining tax of 4 francs per 100 kilos, collected when it is taken into the refinery, if it is to be consumed as refined sugar. (Law of April 7, 1897.)

Native sugars are taxed in part under regular tariff A, in part according to special tariff B. The distribution of manufactured sugars among one or the other tariff is made according to one of the two following methods, between which the manufacturers have the faculty of choosing (law of June 29, 1891):

First method (taxation according to the yield of the beets): Are assessed under the regular tariff (60 francs per 100 kilos):

1. Sugars obtained up to the amount of 7.75 kilos of refined sugar, legal yield, per 100 kilos of beets operated upon.

2. One-half of the sugars obtained above the yield of 10.50 kilos.

Are assessed according to the special tariff (30 francs per 100 kilos):

1. Sugars obtained above the yield of 7.75 to a yield of 10.50 kilos.

2. One-half of the sugars obtained above 10.50 kilos.

Second method (taxation according to actual production): Are assessed according to the regular tariff (60 francs per 100 kilos) sugars actu-

ally manufactured under deduction of 15 per cent for waste in manufacturing. Sugars representing such waste only pay a tax of 30 francs.

Sugars of the first colonies are taxed according to the regular tariff with a deduction for waste equal to the average of surplus obtained by the native sugar industry during the previous season. (Law of July 13, 1886.) Sugars representing this waste are only liable to the tax of 30 francs per 100 kilos.

2. CUSTOMS TARIFFS.

In addition to the above tax, foreign raw sugars of European origin or imported from European warehouses bear a customs surtax, which is not reimbursed in case of reexportation, of 9 francs per 100 kilos actual weight. The surtax is applicable to pulverized sugars imported from non-European countries for consumption.

Refined sugars other than candied and sugar assimilated to refined sugar (raw sugar the presumed yield of which on refining is higher than 98 per cent) bear, whatever country they may come from, a surtax of 16 francs per 100 kilos of actual weight under the general tariff, and of 10 francs under the minimum tariff.

Candied sugars pay 28.80 francs under the general tariff and 25.80 francs under the minimum tariff of 100 kilos (actual weight).

Customs duties on the subsidiary products of sugar are as follows (per 100 kilos):

	Francs.
Foreign molasses, not for distilling, with a saccharine richness of 50 per cent or less:	
General tariff	24.75
Minimum tariff	20.75
Molasses, not for distillation, with a saccharine richness of over 50 per cent:	
General tariff	52.50
Minimum tariff	42.90
Chocolate containing 55 per cent at least of cocoa:	
General tariff	132.25
Minimum tariff	102.25
(Law of April 7, 1897.)	
Sirups, confectionery, fruits preserved in sugar:	
1. From French colonies and possessions	64.00
2. From foreign countries—	
General tariff	80.00
Minimum tariff	74.00
Sugared pastry:	
1. From French colonies and possessions	32.00
2. From foreign countries—	
General tariff	58.00
Minimum tariff	51.00
Sugar and honey preserves:	
1. From French colonies and possessions	32.00
2. From foreign countries—	
General tariff	40.00
Minimum tariff	37.00
Condensed milk sugared:	
General tariff—	
Less than 50 per cent of sugar	48.00
Minimum tariff—	
Less than 40 per cent of sugar	35.60
Forty per cent inclusive and 50 per cent exclusive	43.00
Molasses for distilleries, including exosmose waters:	
Molasses from French colonies and possessions	Free
Foreign molasses—	
General tariff	.30
Minimum tariff	.20
For each degree of absolute saccharine richness.	
(Law of July 14, 1897.)	

The internal tax of 13.50 francs on native glucose is not applicable to foreign glucose. That product, being assimilated to sirups, is liable to a tax equal to that on refined sugars (70 or 76 francs per 100 kilos).

A rebate of 2.25 francs per 100 kilos on refined sugar from colonies in the Atlantic Ocean and of 2.50 francs for the other colonies is allowed on account of distance to sugars imported directly into France from the colonies.[1]

3. LIQUIDATION OF THE DUTIES.

Dues on sugars destined for home consumption are to be paid:

For native sugars, when they are taken out of the factories or warehouses.

For colonial and foreign sugars, when they are entered into the territory or taken out of the bonded warehouses.

Refined sugars are assessed for their total weight without abatement. All sugars in loaves or agglomerated in any way are considered as refined. Pulverized sugars from abroad whose presumed yield in refining exceeds 98 per cent are assimilated to refined sugars. (Law of July 19, 1880.)

Candied sugar is classified as refined; like the latter it is assessed for its total weight without abatement, but inasmuch as a quantity of raw sugar higher by 7 kilos than that which suffices for ordinary sugar is required for its manufacture, the law allows a difference of 4.20 francs between the tariff on candied sugar and that on refined sugar.

Pulverized sugars of all origins other than those assimilated to refined sugar are assessed according to their presumed yield in refining, such yield to be not less than 65 per cent in the case of cane sugars produced at home, in the colonies, or abroad, nor than 80 per cent in the case of foreign beet sugars. The presumed yield in refining is determined without any fraction of degree by means of the polarimetric analysis which sugars undergo in the laboratories of the ministry of finance. From the "titrage" (absolute richness) indicated by the polarimeter, there is allowed an abatement equal to four times the weight of ashes and twice the weight of glucose (invert sugar) which have been found by the tests to be in the sugars. There is also deducted from the product of the multiplication of the actual weight by the yield thus determined, an amount equal to 1½ per cent of such yield, under the head of wastage.

In case of dispute over the "titrage" ascertained in the Government laboratories, the dispute is referred to the expert commissioners established by the law of July 27, 1822, at the ministry of commerce, whose decisions are final.

The analyses made in the laboratories are maintained as correct when the differences, one way or the other, are less than 1 degree. (Law of July 19, 1880, and law of August 5.)

The "vergeoises," inferior product of refinery, undergo the same treatment as raw sugar, but there is no deduction made for glucose on the polarimetrical "titrage." Those that are found to contain more than 98 per cent are assimilated to refined sugar when imported from abroad. It is proper to remark that sugar is taxed in its refined con-

[1] A similar rebate of 2 francs per 100 kilos actual weight is allowed for native sugars shipped under certain circumstances of distance and transportation to refineries of Atlantic and Mediterranean ports or in the interior there to be worked for exportation. The rebate is returned to the treasury in the case of nonexportation. (Law of April 7, 1897.)

dition only when imported or coming out of sugar-making refineries. That which comes out of refineries, properly so called (separate establishments), has paid the tax in the condition of raw sugar before being taken into those establishments.

The dues are paid either in specie, cash without discount, or by means of indorsed drafts at four months sight, with interest computed at 3 per cent per annum, and an allowance of one-third per cent to protect the treasury and the tax collector from such risks as they may take in granting the credit. (Law of February 15, 1875.)

The ascertainment and collection of duties on native sugars and glucose devolve upon the administration of internal revenue.

The inspection of imported sugar and the collection of the duties (internal tax and surtaxes) to which they are liable are within the province of the customs service.

Native sugars and foreign beet sugars are taxed according to their actual net weights.

In regard to colonial sugars and foreign cane sugars, the customs service determines the taxable net weight by deducting from the gross weight of the packages a fixed quantum determined in advance, according to the nature of the wrappers, which constitutes the legal tare.

The present legal tares are fixed at 13 per cent for coverings in hard wood, 10 per cent for coverings in soft wood, 8 per cent for canisters, etc. The tare is applied whenever the importers do not claim the actual tare.

II.—Direct exportation and temporary admission.

The law of May 7, 1864, has abolished all drawbacks, all refundment of duty on exported sugar.

Exportation is effected either directly from the factories or warehouses, the payment of duties being suspended, or under the régime of temporary admission.

Title I.—*Direct exportation.*

Native sugars liable to the regular tariff that are destined for direct exportation are taken out of the factories or warehouses, without the payment of duties which is suspended under the guarantee of bond certificates. The certificates are simply canceled by the custom-house when the shipment or transportation abroad has been ascertained.

Title II.—*Temporary admission.*

Under the law of May 7, 1864, nonrefined sugars of all origin enjoy the privilege of temporary admission. This régime is compulsory for raw sugars destined for exportation or reexportation after refining.

Refined sugars of all origins and sugars of all kinds imported from European countries or warehouses are not admitted to the régime.

Temporary admission consists in the faculty granted to the taxpayers to receive sugars without payment of the duties, but under the engagement on their part to prove within a period of two months that a corresponding quantity has been either exported or placed in a bonded warehouse, or to pay on the quantities charged to them the duties, the collection of which has been provisionally suspended. The interests of the revenue are secured by bonds which give occasion for the payment of an allowance of one-sixth per cent, and in case of a liquidation in cash to an interest of 3 per cent per annum, computed from the date

of the bond. These bonds are subscribed for the quantity of refined sugar represented by the raw sugar thus assumed, according to the result of the analysis made under the conditions hereinbefore defined in connection with the liquidation of duties. Sugars placed in temporary admission are provisionally considered as free from taxation.

Refined sugar in loaves or lumps, sugar cracked in regular pieces, irregular pieces, and the powders coming from the breaking or the grinding of the loaves in the establishments under the surveillance of the customs or revenues services, are admitted as a set-off on accounts of temporary admission for their total weight on condition that they shall be perfectly pure, hard, and dry, or come from loaves combining these conditions. Candied sugars must have the aspect of dry and translucid crystals. They are reckoned at the rate of 107 kilos refined for 100 kilos of candied sugar. The other products of refineries—that is to say, sugars in irregular pieces, powders made from the grinding or sawing of loaves in establishments that are not under surveillance, and lastly, the "vergeoises," are admitted as a set-off on the accounts of temporary admission in the proportion of the quantity of pure sugar that they have been found to represent according to the analysis made by the saccharimetric processes, with the abatement of ashes at the coefficient 4, but without abatement for glucose and without deduction of one and a half under the head of waste.

There is also admitted as an offset on accounts of temporary admission, crystallized sugar found in that condition in candied fruits, confectionery, preserves, sugared pastry exported or stored in warehouses for ultimate exportation. The same measure has been extended to sugar contained in liquors, sirups, and fruits preserved in sirup.

The exportation or the storing in bonded warehouse of sugars presented as an offset for temporary admission accounts is ascertained by means of certificates delivered by the customs or revenue service; these certificates, detached from a stub book and transferable by indorsement, are used in the liquidation of the bonds filed either by the exporter himself or at a previous date by other parties, provided that the date shall not be more than two months old.

The certificates attesting the exportation or warehousing of sugars liable to the reduced tariff are accepted in settlement, either up to the amount of one-half of the quantities therein described, for bonds securing the regular duty of 60 francs, or weight for weight for the bonds securing the payment of the duty of 30 francs.

Sugars placed in bonded warehouse to offset temporary admission accounts must, when they are taken out of the warehouse, be exported or pay the duty in specie; they can not be settled by means of four months' drafts nor of renewed bonds of temporary admission.

III.—Export bounties.

The law of April 7, 1897, has granted to native or colonial sugars exported to foreign countries or to French colonies, not subject to the customs tariff of the mother country, bounties, the rate of which has been fixed as follows:

	Francs.
Raw sugar of a "titrage" from 65 to 98 per cent for beet sugars or of from 65 to 97 per cent for French colonial sugars, per 100 kilos of refined sugar	3.50
Raw sugar in grain or small crystals, of a "titrage" of 98 per cent at least for beet sugars or 97 per cent at least for colonial sugars, the "titrage" being taken before the deduction of 1½ per cent for waste on refining, per 100 kilos of refined sugar	4.00

	Francs.
(For sugars of this class directly exported from the factory and polarizing 99.75 degrees at least, the bounty is reckoned on the actual weight.)	
Candied sugars at the ratio of 107 kilos of refined sugar for 100 kilos of candied sugar, actual weight	4.50
Refined sugars in loaves or lumps perfectly pure, hard and dry, per 100 kilos, actual weight	4.50
"Vergeoises" per 100 kilos of refined sugar	4.50
Refined sugars in grain or crystals of a "titrage" of at least 98 per cent, per 100 kilos of refined sugar	4.00

(When sugars of this class polarize 99.75 degrees at least, the bounty is computed on the actual weight.)

IV.—"EXERCICE" OF FACTORIES, REFINERIES, AND WAREHOUSES.

The collection of the taxes is secured by the "exercice" of sugar-making refineries, refineries and warehouses.

These establishments are placed under the permanent surveillance of the revenue service.

I.—*Factories.*

The disposition of the factories is arranged according to fixed conditions.

The equipment of the contrivances for weighing beets is not allowed to be put in operation until they shall have been approved by the administration.

The weighing device, or apparatus, consists in a scale the essential organs of which are so placed as to be out of reach. Between the various organs of that apparatus there is established a close relation which prevents the introduction of beets as soon as the scale has received its normal load. In addition to these guarantees, there are others resulting from a device called safety bolt, which absolutely prevents the unloading of beets so long as the weighing has not been exactly regulated; also from 2 meters, one visible, the other opaque, the records of the latter serving to check those of the former, both being operated by different organs; from the sealing of grates surrounding the apparatus; from the erection of a partition separating the weighing apparatus from the man charged with placing the beets on the scales, and sending them after the weighing to the root-cutting machine.

Besides its checking of the weighing operations, the revenue also supervises the extraction of sugar. To that end the employees watch over the several operations of the factory, notably the turbination and manipulation in the storehouse, which can not be opened except in their presence.

II.—*Sugar-making refineries.*

The sugar-making refineries—that is to say, establishments which refine at once sugar of their own make and that which they draw from outside—are placed under the same régime as the factories. The manufacturers and refining manufacturers have to contribute to the payment of expenses incurred in the surveillance of their establishments by the payment of a sum of 0.30 franc per ton of beet operated on. (Law of July 4, 1887.)

III.—*Refineries.*

Refineries are under permanent surveillance. This surveillance is exclusively applied to products received or shipped by the refiners at the time of their being taken in or out. There can be introduced into the factory but sugar that has previously paid the duty or been temporarily admitted. After being once collected the duties are finally retained by the Treasury, whatever may be the final result of the refining. The "exercice" of refineries has for its object to note, with a view of submitting it to the tax, such surplus as refiners might succeed in obtaining over and above the presumed yield determined under the conditions above defined and according to which the liquidation of duties was effected. To that end the account of the refiner is debited with the amount of the abatements made on the saccharine richness of the raw sugar taken in (four times the weight of ashes and twice that of glucose); it is credited with the quantities of sugar, whether crystallizable or not, contained in the products shipped in the condition of natural molasses or contained in the "vergeoises." That account is balanced at the close of every six months.

If there has been as much taken out as in, or more, the refiner owes nothing; the condition of the account shows that the abatements have not been exaggerated.

If there is less taken out than in, he owes the whole duty, say, 60 francs per 100 kilos on the quantities which represent the surplus of quantity taken in. Here the balance of the account shows that the abatements were exaggerated. The crystallizable sugar to which they correspond not being found in the condition of crystallizable sugar or glucose in the products that have been shipped, it is considered that it may have been obtained in the condition of refined, and delivered to consumption as such.

Refiners pay for the expenses of the "exercice" a sum of 4 centimes per 100 kilos of raw sugar taken into the factory. This tax is returned when the refined sugar is exported.

IV.—*Warehouses.*

Foreign or colonial sugars that have not paid the taxes are admitted to storage in the custom-house bonded warehouses.

Native sugars are stored in bonded warehouses placed under the surveillance of the revenue service. The warehouses of both the customs and revenues services will also receive raw sugars of all origins refined sugars and "vergeoises" that are presented to offset the temporary admission accounts.

Bonded warehouses of the internal revenue may be established in all cities that apply therefor by engaging to defray all the expenses.

The régime of the bonded warehouse enables traders and manufacturers to put off the exportation of sugars, or to wait before paying the duties until the sugar shall be delivered either for direct consumption or refining.

The duration of storage in a bonded warehouse is limited to three years.

The quantity stored is made the object of a general account of quantities taken in and out. When taken out of the warehouses sugars are treated as if they came from abroad, the colonies, or if they had been taken out of the factory. However, products that have been placed in the warehouse to offset temporary admission accounts must, if they are not exported, pay the duty in specie exclusively.

V.—*General provisions.*

Sugar manufacturers and refiners must provide themselves with a license, the cost of which is 125 francs per annum.

The shipment of sugars must be done under certain conditions of weight and packing.

The sugars, and other sugar substances of all natures, are subject to certain formalities of circulation within a determined radius around the factory.

Tabular statements showing (A) the duties on sugars and products derived from sugar imported from abroad; (B) the duties on colonial sugars; (C) duties on native sugars; (D) the tariff of export bounties.

(A) DUTIES ON SUGARS AND PRODUCTS DERIVED FROM SUGARS IMPORTED FROM ABROAD.

	Internal taxes.	Customs duties.	Total of taxes.
Foreign sugars:			
Pulverized, whose presumed yield in refining is—	*Francs.*	*Francs.*	*Francs.*
98 per cent or less	60.00	9.00	69.00
Over 98 per cent	60.00	16.00	76.00
Refined—			
Other than candied—			
General tariff	60.00	16.00	76.00
Minimum tariff	60.00	10.00	70.00
Candied—			
General tariff	64.20	28.80	93.00
Minimum tariff	64.20	25.80	90.00

In addition to the above taxes, raw sugars pay:

1. A manufacturing tax of 1 franc per 100 kilos if they are not sent to a refinery.
2. A refining tax of 4 francs per 100 kilos if they are sent to a refinery.

The refined sugars or sugars similar thereto pay the refining tax of 4 francs.

Candied sugars pay the refining tax at the rate of 107 kilos of refined sugar per 100 kilos of candied sugars—that is to say, 4 francs 28 centimes per 100 kilos actual weight.

	Francs.
Molasses not for distillation (per 100 kilos net)—	
Of a saccharine richness of 50 per cent or less:	
General tariff	24.75
Minimum tariff	20.75
Of a saccharine richness of more than 50 per cent:	
General tariff	52.50
Minimum tariff	42.90
Sirups, confectionery, fruits preserved in sugar:	
From French colonies and possessions	160.00 + 4.00
From foreign countries—	
General tariff	176.00 + 4.00
Minimum tariff	170.00 + 4.00
Sugared pastry:	
From French colonies and possessions	130.00 + 2.00
From foreign countries—	
General tariff	156.00 + 2.00
Minimum tariff	149.00 + 2.00
Sugar or honey preserves:	
From colonies and French possessions	130.00 + 2.00
From foreign countries—	
General tariff	138.00 + 2.00
Minimum tariff	135.00 + 2.00

	Francs.
Chocolate containing 55 per cent at least of cocoa:	
General tariff	132.25
Minimum tariff	102.25
Condensed milk, sugared:	
General tariff—less than 50 per cent of sugar	46.00 + 2.00
Minimum tariff—less than 40 per cent	34.00 + 1.60
From 40 per cent, inclusive, to 50 per cent, exclusive, per 100 kilos net	41.00 + 2.00

(B) DUTIES ON COLONIAL SUGARS.

	Franc
Sugars from the French colonies and possessions, per 100 kilos net of refined sugar:	
Taxable at the regular rate	60.00
Sugars representing surplus of yield	30.00

(C) DUTIES ON DOMESTIC SUGARS.

	Francs.
Raw sugars taxable at the regular rate per 100 kilos net of refined sugar	60.00
Refined sugars other than candied, per 100 kilos net (actual weight)	60.00
Candied refined sugars, per 100 kilos net (actual weight)	64.20
Sugars representing surplus of yield or waste in manufacturing, per 100 kilos net of refined sugar	30.00

In addition to these taxes sugars pay—

1. A manufacturing tax of 1 franc per 100 kilos if they are not sent to a refinery.
2. A refining tax of 4 francs per 100 kilos if they are sent to a refinery.

The refined sugars, or sugars assimilated thereto, pay the refining tax of 4 francs.

Candied sugars pay the refining tax at the rate of 107 kilos of refined sugar per 100 kilos of candied sugars; that is to say, 4.28 francs per 100 kilos actual weight.

(D) EXPORT BOUNTIES.

[Tariff of bounties granted to native or colonial sugars exported to foreign countries or to French colonies not subject to the customs tariff of the mother country.]

	Francs.
Raw sugars in grains or small crystals of a "titrage" of 98 per cent at least of beet sugars or 97 per cent at least for colonial sugars, the "titrage" being taken before deduction is made for waste on refining, per 100 kilos of refined sugar	4.00
(Sugars of this class, taxable and shipped directly abroad by the manufacturer himself, when they polarize 99.75 per cent at least, will be reckoned for the weight in refined sugar and credited without any deduction to the manufacturer's accounts.)	
Raw sugars of a "titrage" from 65 to 98 per cent for beet sugars or from 65 to 97 per cent for French colonial sugars, per 100 kilos of refined sugar	3.50
Candied sugars estimated at the legal coefficient; refined sugars in loaves or lumps perfectly pure, hard, and dry, per 100 kilos (actual weight)	4.50
"Vergeoises," per 100 kilos of refined sugar	4.50
Refined sugars in grains or crystals of a "titrage" of at least 98 per cent, per 100 kilos of refined sugar	4.00

(When sugars of this last class polarize 99.75 per cent at least they should be considered as pure refined sugars, and export certificates issued for them will be received for the discharge of temporary admission obligations for their whole weight without any deduction.)

SUGAR BOUNTIES.

DOMESTIC, COLONIAL, FOREIGN SUGARS.

Production, importation, exportation, consumption, receipts.

[Quantities expressed in refined sugar.]

Seasons.	Production of domestic sugar.	Years.	Importation.			
			Sugars from French colonies (raw).	Foreign sugars.		Total imports.
				Raw.	Refined, candied, and "vergeoises."	
	Kilograms.		*Kilograms.*	*Kilograms.*	*Kilograms.*	*Kilograms.*
1883–84	406,007,648	1883	68,567,592	106,187,546	4,854,671	179,589,809
1884–85	272,962,353	1884	66,371,830	108,682,780	18,392,518	193,447,128
1885–86	265,071,371	1885	98,719,525	140,919,050	7,804,963	247,443,538
1886–87	434,043,572	1886	88,210,116	51,399,291	4,704,250	144,313,657
1887–88	347,785,469	1887	110,055,611	32,516,530	3,551,691	146,123,832
1888–89	414,869,576	1888	115,764,859	75,434,334	1,755,345	192,954,538
1889–90	700,409,247	1889	100,915,850	44,214,034	2,026,727	147,156,611
1890–91	615,958,661	1890	96,862,151	33,524,895	2,569,000	132,956,046
1891–92	579,420,486	1891	89,147,861	50,884,728	2,337,881	142,370,170
1892–93	523,366,069	1892	92,778,337	55,232,537	1,439,680	149,450,554
1893–94	514,788,804	1893	102,737,029	28,285,643	588,389	131,609,061
1894–95	704,454,108	1894	102,105,334	53,798,879	876,869	156,781,082
1895–96	593,646,930	1895	87,968,822	38,446,880	1,206,407	127,622,109
1896–97	668,516,778	1896	112,653,730	33,368,750	363,572	146,386,061
1897–98[1]	720,155,288	[1] 1897	110,113,611	1,325,907	91,996	111,531,514

Seasons.	Production of domestic sugar.	Years.	Exportation.		
			Native raw sugars.	Refined sugars.	Total exports.
	Kilograms.		*Kilograms.*	*Kilograms.*	*Kilograms.*
1883–84	406,007,648	1883	42,236,732	122,683,759	164,920,491
1884–85	272,962,353	1884	18,752,409	113,674,742	132,427,151
1885–86	265,071,371	1885	2,782,933	71,166,306	73,949,239
1886–87	434,043,572	1886	19,446,561	117,225,766	136,672,327
1887–88	347,785,469	1887	3,945,174	153,923,834	157,869,008
1888–89	414,869,576	1888	41,447,718	115,907,237	157,354,955
1889–90	700,409,247	1889	119,714,283	139,844,459	259,558,742
1890–91	615,958,661	1890	179,990,392	152,840,121	332,830,513
1891–92	579,420,486	1891	147,589,411	121,053,025	268,642,436
1892–93	523,366,069	1892	88,526,028	126,576,211	215,102,239
1893–94	514,788,804	1893	139,585,075	113,783,072	253,368,147
1894–95	704,454,108	1894	147,364,128	130,881,377	278,245,505
1895–96	593,646,930	1895	85,206,007	119,901,321	205,107,328
1896–97	668,516,778	1896	112,256,244	110,764,021	223,020,265
1897–98[1]	720,155,288	[1] 1897	306,418,590	146,716,226	453,134,816

[1] Estimated.

DOMESTIC, COLONIAL, FOREIGN SUGARS—continued.

Production, importation, exportation, consumption, receipts—Continued.

Seasons.	Production of domestic sugar.	Years.	QUANTITIES SUBJECT TO TAXATION. Quantities taxed. Full rates of duty.	Reduced rates of duty.	Special rates for sweetening wine crops.	Total of taxable quantities.
	Kilograms.		*Kilograms.*	*Kilograms.*	*Kilograms.*	*Kilograms.*
1883–84	406,007,648	1883	402,181,021	.....	.....	402,181,021
1884–85	272,962,353	1884	378,086,500	10,534,978	.....	388,621,478
1885–86	265,071,371	1885	332,825,590	46,243,729	[1] 7,733,511	386,802,830
1886–87	434,043,572	1886	254,810,195	110,444,087	[1] 27,263,855	392,518,137
1887–88	347,785,469	1887	190,601,800	177,684,074	[1] 35,965,848	404,251,722
1888–89	414,869,576	1888	216,043,979	137,784,762	39,730,252	393,558,993
1889–90	700,409,247	1889	172,040,230	166,602,338	20,674,762	359,317,390
1890–91	615,958,661	1890	195,269,165	193,673,148	34,763,518	423,705,831
1891–92	579,420,486	1891	221,387,032	162,616,094	36,278,136	420,281,262
1892–93	523,366,069	1892	244,770,209	148,300,815	30,368,453	423,439,477
1893–94	514,788,804	1893	248,643,406	120,605,515	19,800,690	389,049,611
1894–95	704,454,108	1894	242,120,201	137,797,690	21,359,003	401,276,894
1895–96	593,646,930	1895	216,321,387	160,186,756	26,718,412	403,226,555
1896–97	668,516,778	1896	223,028,619	154,274,741	33,066,191	410,369,551
1897–98 [2]	720,155,288	[2] 1897	237,252,811	109,818,701	22,801,471	369,872,983

Seasons.	Production of domestic sugar.	Years.	TAXES COLLECTED, EXCLUSIVE OF THE PROCEEDS OF CUSTOMS SURTAXES. Proceeds of the tax. Full rates.	Reduced rates.[1]	Special rates for sweetening wine crops.	Total amount collected.
	Kilograms.		*Francs.*	*Francs.*	*Francs.*	*Francs.*
1883–84	406,007,648	1883	160,872,408	.....	.....	160,872,408
1884–85	272,962,353	1884	169,069,332	.....	.....	169,069,332
1885–86	265,071,371	1885	167,743,479	.....	1,546,703	169,290,182
1886–87	434,043,572	1886	127,405,189	.....	5,452,775	132,857,964
1887–88	347,785,469	1887	107,019,321	6,676,626	8,630,011	122,325,958
1888–89	414,869,576	1888	129,617,688	15,213,004	9,535,263	154,365,955
1889–90	700,409,247	1889	103,224,191	30,707,378	4,961,949	138,893,518
1890–91	615,958,661	1890	117,161,549	39,887,015	8,313,275	165,391,839
1891–92	579,420,486	1891	132,848,680	48,738,755	8,707,747	190,295,182
1892–93	523,366,069	1892	146,863,398	44,491,491	7,288,427	198,643,316
1893–94	514,788,804	1893	149,187,350	36,182,509	4,752,190	190,122,049
1894–95	704,454,108	1894	145,304,747	41,342,084	5,126,441	191,773,272
1895–96	593,646,930	1895	129,793,027	48,059,345	6,412,418	184,264,890
1896–97	668,516,778	1896	133,817,207	46,282,571	7,955,886	188,035,664
1897–98 [2]	720,155,288	[2] 1897	142,351,624	32,945,691	5,472,837	180,770,152

[1] Prior to the law of May 27, 1887, all surplus of manufacture was exempt from any manner of tax.
[2] Estimated.

NOTE.—One franc equals 19.3 cents; 1 kilogram equals 2.2046 pounds.

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GREAT BRITAIN.

TABULAR STATEMENTS RELATIVE TO IMPORTS AND EXPORTS OF SUGAR OF GREAT BRITAIN DURING THE LAST FIFTEEN YEARS.

I.—Statement of imports of raw and refined sugar into the United Kingdom during the years indicated, separating imports coming respectively from countries in which cane and beets are grown.

A.—RAW SUGAR FROM CANE-GROWING COUNTRIES.

Year.	British possessions.				
	West Indies (Guyana and Honduras included).	India, Ceylon, and Straits Settlements.	Mauritius.	Other British possessions.	Total for British possessions.
	Cwt.	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*
1883	2,739,878	1,697,807	289,195	43,388	4,770,268
1884	3,368,367	1,126,106	338,495	70,922	4,903,890
1885	2,756,705	849,612	252,873	86,326	3,945,516
1886	1,975,336	877,080	291,759	104,970	3,249,145
1887	2,147,060	828,547	104,986	99,890	3,180,483
1888	2,129,833	1,006,913	256,463	53,740	3,446,949
1889	1,885,127	1,720,579	307,880	64,141	3,977,727
1890	1,338,255	710,736	249,528	36,019	2,334,538
1891	1,096,129	952,906	222,789	90,050	2,361,874
1892	1,488,132	814,718	245,058	141,945	2,689,853
1893	1,225,642	1,052,668	244,506	69,198	2,592,014
1894	1,694,006	1,267,510	266,679	57,228	3,285,423
1895	1,693,189	1,062,125	132,174	7,385	2,894,873
1896	1,445,801	1,619,558	34,657	4,073	3,104,089
1897[1]	1,056,609	571,252	48,624	[2]	[2]

Year.	Foreign countries.						Total for all foreign countries.	Total for British possessions and foreign countries.
	Brazil.	Central and South America (Brazil excluded).	Foreign West Indies.	Foreign East Indies.	Other countries.			
					Specified.	Not specified.		
	Cwt.	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*
1883	1,233,846	756,946	362,956	4,368,655	456,372	294	7,179,069	11,949,337
1884	1,414,322	601,989	504,683	3,877,454	336,419	1,447	6,736,314	11,640,204
1885	1,304,949	810,585	670,267	4,195,847	296,760	3,024	7,281,432	11,226,948
1886	597,228	686,390	49,232	4,466,382	311,004	142	6,110,378	9,359,523
1887	869,843	587,481	185,587	3,660,729	301,361	1,026	5,606,027	8,786,510
1888	2,269,235	638,856	345,224	4,334,912	450,678	198	8,039,103	11,486,052
1889	725,824	825,378	70,416	3,405,226	399,333	.....	5,426,177	9,403,904
1890	430,847	716,830	52,185	1,943,428	171,527	255	3,315,072	5,649,610
1891	502,095	518,415	19,935	3,314,225	258,236	710	4,613,616	6,975,490
1892	397,956	809,003	12,528	3,487,614	311,008	1,089	5,019,198	7,709,051
1893	406,162	573,018	82,960	3,332,787	365,265	2,693	4,762,885	7,354,899
1894	469,903	395,658	250,089	1,770,609	312,517	5,236	3,204,012	6,489,435
1895	658,098	821,787	208,266	2,679,899	491,198	6,116	4,865,364	7,760,237
1896	395,313	1,105,899	32,560	2,531,069	448,436	.....	4,513,277	7,617,366
1897[1]	324,987	[2]	[2]	1,259,670	[2]	[2]	[2]	[2]

[1] The figures for 1897 have been taken from the Monthly Accounts of Trade Navigation, and are but provisional. They are subject to revision when the information on which they rest shall be finally examined.

[2] This information can not yet be supplied.

I.—Statement of imports of raw and refined sugar into the United Kingdom during the years indicated, etc.—Continued.

B.—RAW SUGAR FROM BEET-GROWING COUNTRIES.

Year.	France.	Germany.	Belgium.	Netherlands.	Other countries.	Total.
	Cwt.	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*
1883	245,994	6,382,317	1,462,143	326,836	.....	8,417,290
1884	44,095	7,205,678	487,165	234,623	10,914	7,982,475
1885	26,229	7,331,637	543,175	286,570	2,000	8,189,611
1886	38,007	5,671,642	750,071	281,034	32,784	6,774,138
1887	68,186	7,658,481	1,063,014	407,008	27,165	9,223,856
1888	41,497	5,329,242	694,302	285,040	21,336	6,371,417
1889	552,080	5,797,194	1,289,870	420,376	86,723	8,146,243
1890	1,393,694	6,888,101	1,301,701	429,883	54,487	10,067,866
1891	1,437,283	6,421,998	818,272	417,959	131,456	9,226,968
1892	591,083	6,707,313	692,816	295,001	300,383	8,586,596
1893	811,954	6,303,877	1,099,071	229,555	232,757	8,677,214
1894	1,076,231	5,403,423	713,403	179,149	444,363	7,816,569
1895	840,715	6,827,954	1,085,346	312,877	182,868	9,249,760
1896	1,420,982	5,035,854	1,109,231	105,652	454,591	8,126,310
1897	2,751,951	4,383,928	1,173,157	211,289	(1)	(1)

C.—REFINED SUGAR FROM CANE-GROWING COUNTRIES.

Year.	British possessions.		Foreign countries.				Total for foreign countries and British possessions.
	India.	Total.	United States.	Other countries.		Total.	
				Specified.	Not specified.		
	Cwt.	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*
1883	.....	6,448	125,596	6,716	1,013	133,325	139,793
1884	.....	17,701	1,044,553	1,424	2,509	1,048,486	1,066,187
1885	199	416	2,281,254	.....	569	2,281,823	2,282,239
1886	.....	310	1,423,323	.....	1,980	1,425,303	1,425,613
1887	.....	.....	775,853	6	.....	775,859	775,859
1888	73	75	41,605	.....	.....	41,605	41,680
1889	4,000	6,159	10,207	1,165	.....	11,372	17,531
1890	286	290	292,895	.....	100	292,995	293,285
1891	.....	46	536,651	.....	1,272	537,923	537,969
1892	.....	1,026	15,752	21,594	1,286	38,632	39,658
1893	.....	4,212	23,961	18,687	2,189	44,837	49,049
1894	.....	1,480	15,051	.....	3,217	18,232	19,712
1895	.....	195	16,028	.....	5,192	21,220	21,415
1896	.....	322	9,603	.....	1,734	11,337	11,659
1897	(1)	(1)	13,861	(1)	(1)	(1)	(1)

D.—REFINED SUGAR FROM EUROPEAN BEET-GROWING COUNTRIES.

Year.	France.	Germany.	Belgium.	Netherlands.	Russia.	Other countries.	Total.
	Cwt.	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*
1883	1,443,743	587,788	106,387	1,006,209	.....	.....	3,144,127
1884	1,047,501	752,027	77,834	1,320,324	.....	.....	3,197,686
1885	498,858	974,025	74,057	1,268,522	231,365	.....	3,046,807
1886	1,006,946	1,830,467	109,585	1,180,289	819,150	.....	4,946,437
1887	1,548,718	2,832,815	216,717	1,501,197	117,390	3,616	6,220,453
1888	1,559,709	3,180,186	205,612	1,422,376	461,841	350	6,830,274
1889	2,604,307	4,142,284	236,723	1,353,037	489,236	135,142	8,960,729
1890	2,701,533	5,062,846	176,378	1,785,365	12,933	4,325	9,683,380
1891	2,155,737	6,572,045	269,270	1,751,953	45,147	.....	10,794,152
1892	1,789,956	6,043,396	360,414	2,033,291	343,252	10,704	10,581,013
1893	2,522,829	6,634,167	505,333	1,759,936	.....	79,226	11,501,491
1894	2,953,203	8,595,469	337,499	1,908,796	130,113	.....	13,925,080
1895	1,981,096	9,382,266	702,262	2,020,724	37,380	.....	14,123,728
1896	1,451,578	10,058,821	634,676	2,013,736	600,724	5,735	14,765,270
1897	3,166,625	10,124,904	752,274	1,738,478	(1)	(1)	(1)

[1] This information can not yet be given.

I.—Statement of imports of raw and refined sugar into the United Kingdom during the years indicated, etc.—Continued.

E.—RECAPITULATION.

Year.	Raw sugar from cane-growing countries.			Raw sugar from beet-growing countries.	Refined sugar from cane-growing countries.			Refined sugar from beet-growing countries.	Total of raw and refined sugars of all kinds.
	From British possessions.	From foreign countries.	Total.		From British possessions.	From foreign countries.	Total.		
	Cwt.	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*
1883	4,770,268	7,179,069	11,949,337	8,417,299	6,468	133,325	139,793	3,144,127	23,650,556
1884	4,903,890	6,736,314	11,640,204	7,982,475	17,701	1,048,486	1,066,187	3,197,686	23,886,552
1885	3,945,516	7,281,432	11,226,948	8,189,611	416	2,281,823	2,282,239	3,046,807	24,745,605
1886	3,249,145	6,110,378	9,359,523	6,774,138	310	1,425,303	1,425,613	4,946,437	22,505,711
1887	3,180,483	5,606,027	8,786,510	9,223,856	.....	775,859	775,859	6,220,453	25,006,678
1888	3,446,949	8,039,103	11,486,052	6,371,417	75	41,605	41,680	6,830,274	24,729,423
1889	3,977,727	5,426,177	9,403,904	8,146,243	6,159	11,372	17,531	8,960,729	26,528,407
1890	2,334,538	3,315,072	5,649,610	10,067,866	290	292,995	293,285	9,683,380	25,694,141
1891	2,361,874	4,613,616	6,975,490	9,226,968	46	537,923	537,969	10,794,152	27,534,579
1892	2,689,853	5,019,198	7,709,051	8,586,596	1,026	38,632	39,658	10,581,013	26,916,318
1893	2,592,014	4,762,885	7,354,899	8,677,214	4,212	44,837	49,049	11,501,491	27,582,653
1894	3,285,423	3,201,012	6,489,435	7,816,569	1,180	18,232	19,712	13,925,080	28,250,796
1895	2,894,873	4,865,364	7,760,237	9,249,760	195	21,220	21,415	14,123,728	31,155,149
1896	3,104,089	4,513,277	7,617,366	8,126,310	322	11,337	11,659	14,765,270	30,520,605
1897	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	29,384,319

[1] This information can not yet be given.

II.—Tabular statement showing quantities of raw and refined sugar produced abroad and in the colonies and exported from the United Kingdom during each year from 1883 to 1897, inclusive.

Year.	Raw sugar.	Refined and candied sugar.
	Cwt.	*Cwt.*
1883	694,424	145,872
1884	486,988	224,095
1885	430,232	219,539
1886	659,514	226,118
1887	481,985	291,480
1888	1,130,495	187,297
1889	736,371	168,591
1890	660,171	531,876
1891	264,082	216,970
1892	227,115	200,716
1893	393,025	164,996
1894	393,518	131,300
1895	229,433	141,949
1896	324,728	142,137
1897	[1]403,886	[1]216,412

[1] The figures for 1897 are subject to revision.

III.—Tabular statement showing the quantity of British refined sugar exported from the United Kingdom during each year from 1883 to 1897, inclusive.

Year.	Quantity.	Year.	Quantity.
	Cwt.		*Cwt.*
1883	1,155,787	1891	725,127
1884	1,294,311	1892	902,327
1885	994,353	1893	1,122,252
1886	852,735	1894	1,037,821
1887	704,891	1895	966,210
1888	684,042	1896	993,698
1889	755,015	1897	[1]874,220
1890	709,416		

[1] The figures for 1897 are subject to revision.

IV.—Tabular statement showing the quantities of raw sugar kept for home consumption in the United Kingdom, and the average price of sugar imported during each year from 1883 to 1897, inclusive.

Year.	Quantities kept for home consumption.		Average import price per cwt.
	Total quantity.	Quantity per capita.	
	Cwt.		*s. d.*
1883	18,516,416	£58.50	20 1
1884	17,841,380	55.94	15 6
1885	17,991,974	55.95	13 10
1886	14,621,414	45.10	13 0
1887	16,823,490	51.48	12 1
1888	16,042,933	48.72	13 5
1889	16,058,761	48.38	15 5
1890	14,347,889	42.87	12 6
1891	15,213,249	45.08	12 10
1892	15,166,205	44.58	13 0
1893	14,556,836	42.41	14 2
1894	12,874,665	37.18	11 5
1895	15,814,354	45.28	9 7
1896	14,425,250	40.94	10 5
1897	12,274,121	34.52	9 0

N. B.—The quantity of raw sugar kept for home consumption is obtained by deducting from the imported quantity the reexported and the British refined exported sugars.

V.—Tabular statement showing the quantities of refined sugar imported and retained for home consumption in the United Kingdom and the average price of sugar imported during each year from 1883 to 1897, inclusive.

Year.	Quantity kept for home consumption.		Average price of sugar imported.
	Total quantity.	Quantity per capita.	
	Cwt.		*s. d.*
1883	3,138,048	£9.91	27 2
1884	4,039,778	12.67	20 11
1885	5,109,507	15.89	18 2
1886	6,145,932	18.96	16 8
1887	6,704,832	20.52	15 8
1888	6,684,414	20.30	17 6
1889	8,809,669	26.54	19 8
1890	9,444,789	28.22	16 4
1891	11,115,151	32.94	16 6
1892	10,419,955	30.63	17 1
1893	11,385,544	33.17	18 4
1894	13,813,492	39.90	15 6
1895	14,033,134	40.19	13 4
1896	14,634,792	41.53	13 7
1897	15,615,680	43.92	12 3

N. B.—The quantity of refined sugar kept for home consumption is obtained by deducting from the imported quantity the quantity of refined foreign sugar reexported.

VI.—Consumption of sugar in the United Kingdom since 1883.

[See Tables IV and V.]

Year.	Quantity of sugar consumed.	
	Cwt.	*Tons.*
1883	21,654,464	1,082,723
1884	21,881,158	1,094,058
1885	23,101,481	1,155,074
1886	20,767,346	1,038,367
1887	23,528,322	1,176,416
1888	22,727,347	1,136,367
1889	24,868,430	1,243,422
1890	23,792,678	1,189,634
1891	26,328,400	1,316,420
1892	25,586,160	1,279,308
1893	25,942,380	1,297,119
1894	26,688,157	1,334,408
1895	29,817,548	1,490,877
1896	29,060,042	1,453,002
1897	27,889,801	1,394,490

THE NETHERLANDS.

Law of January 29, 1897 (Bulletin Officiel No. 63), in force since September 1, 1897.

Rate of taxation per 100 kilos.

(Excise duties.)

	Florins.
Candied sugars—	
First-class (white and light ye'low)	31.86
Second-class (all others)	28.89
Loaves, lumps, and other sugars not otherwise specified	27.00
Raw sugars—	
Of a richness of more than 99 per cent	27.00
All others (for each per cent of richness with a minimum of 18 florins)	.27
"Vergeoises" (the same as raw sugar).	
Melada, molasses, sirups, and other sacchariferous liquids—	
Containing over 10 per cent of solid matter, consisting chiefly of granulated sugar or having in the liquid state a richness superior to 50 per cent.	18.00
All others	6.00
Fecula sugars in grain or pulverized, as well as the "massés" grated or broken.	18.00

There is no customs duty on the above-described sugars.

The "massés" in lumps and other fecula sugars, whether solid or liquid, not otherwise specified, as well as caramel, have to pay a customs duty of but 6 florins per 100 kilos.

Molasses and exhausted sirups coming from the manufacturing of domestic beet sugar or home refineries and fulfilling the conditions determined by royal decree are exempt from excise duties.

Molasses and other sacchariferous liquids imported for the manufacture of spirits are admitted duty free.

"TITRAGE."

Richness is understood by law to mean:

(*a*) For raw sugars of all origins and for domestic "vergeoises" the absolute richness ascertained by means of the polarimetrical analysis and after deduction for ashes and glucose.

The coefficients of abatements to be allowed on the saccharametrical "titre" are fixed at 4 for ashes and 2 for glucose.

(*b*) For foreign "vergeoises," for melada, molasses, sirups, and other similar sacchariferous liquids, the absolute richness.

Fractions of 1 per cent of richness are overlooked for sugars that do not test more than 99 per cent.

The "titrage" is determined in the laboratory of the excise administration. The party in interest has a right to appeal to a committee of sworn chemists, appointed by the minister of finance and the courts of first instance at Amsterdam and Rotterdam.

TARES.

The taxes are collected on the net weight.

For raw sugars, melada, molasses, or sirup this weight is computed by deducting from the gross weight the tare as determined by law.

However, the actual net weight would be ascertained if the party in interest so demands.

PROVISIONS COMMON TO BEET-SUGAR MAKING FACTORIES AND TO REFINERIES.

Beet-sugar making factories and refineries are by day and night under the constant surveillance of revenue officers.

The manufacturer and refiner file in the office of the collector a declaration setting forth, among other things, the buildings and grounds of the factory, what are the inlets and ways of communication with other buildings.

Before proceeding with the erection of a new factory the plans of the plant are submitted to the approval of the minister of finance.

The law contains provision concerning the closing of doors and windows opening on the outside and the putting in place of the principal apparatuses.

The excise inspector designates the doors to be used in taking out the sugar.

It is forbidden to take out sugars or sacchariferous liquids in any manner that is not expressly authorized by law.

SPECIAL PROVISIONS FOR BEET-SUGAR FACTORIES.

The sugars produced in the factory are weighed in the presence of the officers.

The manufacturer must enter the net weight into a register. After the weighing and entering, the sugars are transported into storehouses and lofts designated for the purpose.

The account of manufactured sugars is liquidated by—

(*a*) The outgoing of the sugar under payment of the excise duty.

(*b*) Exportation abroad.

(*c*) Storing of the sugar in bonded warehouse.

(*d*) Delivery of the sugar to a refinery.

The manufacturer is allowed two months' credit for the payment of the excise duties for the sugars taken out duty paid. (Letter *a* above.)

When taken out of the factory the sugars are weighed by the revenue officers, who take at the same time samples for determining the richness.

Exhausted molasses can only be taken out in the presence of officers. If they doubt whether the liquid be really exhausted molasses they may stop it from going out and until its nature shall have been ascertained. The excise inspector may order the stock taking of the sugars.

The surplus is entered into the account; as to any deficiency the excise duty is immediately claimed, an allowance being granted.

SPECIAL PROVISIONS FOR REFINERIES.

Refiners may receive and operate in their factories—

(*a*) Sugars from abroad, warehouses, and factories of native raw sugar.

(*b*) Melada, molasses, and sirups from abroad either directly or by the way of bonded warehouses. When taken in the gross weight of the sugars or saccharifeous liquids is ascertained by the revenue officers who take samples.

These operations may be omitted if the weighing and taking of samples have already been done in some other place and if the sugars or liquids have been sealed or remain in the custody of the officers.

The refiner keeps a book in which each parcel taken into the factory is at once entered.

As to the weighing, registering, and storing of produced sugar, the refineries are subject to the same regulations as the beet sugar-making factories.

The produced sugars are charged to the account of the refiners.

The account is liquidated by—

(*a*) The outgoing under payment of the excise duty.

(*b*) Exportation to foreign countries.

(*c*) Storing in warehouse.

When taken out of the refinery the sugars are weighed by the revenue officers. They classify the candied sugar and take samples for the "titrage" of the "vergeoises."

The outgoing of exhausted sirups is subject to the same provisions as that of exhausted molasses out of beet sugar-making factories.

The excise director may order the stock taking of completed sugar in the refinery.

The surplus is charged to the account; as to deficiencies the excise duty is immediately claimed with the allowances determined by law.

As regards too insignificant refineries subject to another régime, see hereafter under the heading "Merchants."

BOUNTIES.

The following bounties are granted to beet-sugar manufacturers and to refiners:

	Beet-sugar manufacturers.			Refiners.	
Seasons (from Sept. 1 to Aug. 31).	Per 100 kilograms of sugar taken out of the factory during the season (the quantity computed on a richness of 100 per cent).	Maximum of bounties for all manufacturers.	Seasons (from Sept. 1 to Aug. 31).	Per 100 kilograms of refined and "vergeoise" sugars (the latter computed at 100 per cent) taken out of the factories during the season, the quantity taken in being deducted.	Maximum of bounties for all refiners.
(1)	(2)	(3)	(4)	(5)	(6)
	Florins.	*Florins.*		*Florins.*	*Florins.*
1897–1898	2.50	2,500,000	1897–1898	0.34	500,000
1898–1899	2.35	2,400,000	1898–1899	.31	450,000
1899–1900	2.20	2,300,000	1899–1900	.28	400,000
1900–1901	2.05	2,200,000	1900–1901	.25	350,000
1901–1902	1.90	2,100,000	1901–1902	.22	300,000
1902–1903	1.75	2,000,000	[1]1902–1903	.19	250,000
1903–1904	1.60	1,900,000	.....	.....	.....
1904–1905	1.45	1,800,000	.....	.....	.....
1905–1906[1]	1.30	1,700,000	.....	.....	.....

[1] And following seasons.

NOTE.—1 Dutch florin equals 40.2 cents.

If the total amount of bounties to manufacturers computed according to the rate shown in column 2 should exceed the maximum mentioned in column 3, the rate would be proportionately reduced.

The rate mentioned in column 5 would be reduced in the same manner if the total amount of bounties to refiners computed according to that rate should exceed the maximum given in column 6.

There are special provisions of law for sugar-making refineries.

They are not enforced because there is no factory of that kind in existence.

RAW SUGAR MERCHANTS.

Raw sugar merchants are allowed two months credit for the excise duty bearing upon raw sugars that they receive from abroad.

The account must be liquidated by the payment of sums that may be due.

This régime is also applied to two very small refineries that existed prior to the present law.

However, these refiners (who are not entitled to receive the bounties above mentioned) are allowed for raw sugars measuring not more than 99 per cent a reduction of 1½ per cent of the richness under the head of waste. For cane sugar the deduction is 2½ per cent.

The minister of finance may authorize these refiners to export refined sugar, their account being credited with the excise duty. This credit does not exceed 95 per cent of the excise duty bearing upon sugars of the same grade.

"SUCRATERIES."

The "sucraterie" are subjected to regulations similar to those concerning the ordinary refineries and beet-sugar making factories.

These establishments are, however, not entitled to bounties.

There is but one factory of that description.

GLUCOSE.

Such glucose as would be subject to excise duty is not manufactured in the Netherlands.

RETURN OF EXCISE DUTIES.

When chocolate, condensed milk, and other eatables or beverages are exported, the amount of excise duty paid on sugar used in their manufacture is returned.

TRANSIT.

No tax is collected on the transit of sugars or molasses, either direct or by way of bonded warehouse.

EXPENSES.

The weighing and "titrage" of sugars and molasses are done free of charge, except in the case of a revision of the first weighing or of a decision of the commission of chemists called for by the party in interest without changing the original result.

Production.

Seasons.	Quantities subject to taxation according to the quantity and specific gravity of juices.	Sugar exempt from taxation.	Production.	Remarks.
(1)	(2)	(3)	(4)	(5)
	Kilograms.	*Kilograms.*	*Kilograms.*	
1884-85	32,293,189	2,925,000	35,218,189	The production of 1883-84 is not known.
1885-86	18,883,897	2,851,500	21,735,397	The quantities of sugars exempt from taxation in the season 1894-95 (sic) was officially ascertained.
1886-87	28,694,326	5,193,700	33,888,026	For the other seasons the quantity of such sugar rests on careful estimates made by the officers charged with the duty of supervising the factories.
1887-88	30,066,276	5,233,500	35,297,776	
1888-89	27,580,308	5,460,900	33,041,208	
1889-90	46,510,708	10,464,900	56,975,608	
1890-91	51,089,026	11,546,100	62,635,126	
1891-92	31,244,061	7,873,500	39,117,561	
1892-93	45,379,759	10,951,000	56,330,759	
1893-94	49,994,046	11,916,600	61,910,646	
1894-95	61,334,344	9,757,873	71,092,217	
1895-96	77,388,507	12,786,915	90,175,422	
1896-97	126,359,788	17,042,328	143,402,086	
1897-98	120,269,789	.....	120,269,789	

Columns 2 to 4 for the years 1897-98 give the actual weight; for the other seasons the weight reduced at 100 per cent (sic).

The law of January 29, 1897, which came into operation on September 1, 1897, abolishes the tax exemption for the surplus sugar product.

Consumption.

Years.	Consumption.	Remarks.
	Kilograms.	
1893	46,000,000	The system of collection of the taxes abolished on the 1st of September, 1897, did not allow of a precise ascertainment of consumption. The figures here given are based on estimates.
1894	47,000,000	
1895	47,500,000	
1896	48,500,000	
1897	49,500,000	

Importation and exportation (special commerce).

Years.	Raw sugar.		Refined sugar.		"Vergeoises."		Receipts.
	Importation.	Exportation.	Importation.	Exportation.	Importation.	Exportation.	
	Kilograms.	*Kilograms.*	*Kilograms.*	*Kilograms.*	*Kilograms.*	*Kilograms.*	*Florins.*
1883	115,923,587	22,075,160	1,306,925	69,527,182	1,240,554	2,598,337	6,272,431,21¼
1884	123,586,153	15,237,778	1,032,054	88,745,371	2,989,230	3,305,259	5,847,008,23
1885	110,994,843	9,418,219	1,257,722	79,561,765	3,392,647	1,243,373	7,860,293,19¼
1886	87,014,969	7,307,934	1,158,045	74,183,571	5,540,290	1,188,074	7,991,237,93
1887	100,002,614	7,693,744	2,215,035	84,367,654	3,625,941	4,396,252	8,480,148,31
1888	98,916,358	7,580,331	1,702,270	82,724,658	4,734,307	3,023,367	8,209,059,93¼
1889	90,516,095	9,650,701	4,207,802	79,796,581	4,899,475	2,529,173	8,589,158,94¼
1890	111,032,249	8,399,236	3,818,799	102,338,196	4,774,418	4,462,581	7,600,799,87
1891	92,183,698	7,668,136	4,004,559	100,594,296	4,773,511	4,223,926	7,712,766,91¼
1892	115,968,220	4,252,410	3,828,760	111,172,119	4,628,306	6,442,933	7,763,299,39
1893	100,195,485	6,893,933	4,147,866	100,954,881	4,863,549	4,610,623	8,735,670,05
1894	106,336,462	5,204,982	5,823,365	104,059,150	5,421,333	2,911,088	9,031,208,89
1895	94,877,336	8,250,193	10,461,856	110,799,585	5,454,880	1,742,420	9,245,825,07
1896	67,110,942	7,895,430	11,073,256	123,819,976	5,746,263	1,218,062	9,668,202,15¼
1897	57,978,000	11,763,000	10,860,000	121,542,000	5,889,000	3,234,000	10,715,920,47

NOTE.—One kilogram equals 2.2046 pounds; 1 Dutch florin equals 40.2 cents.

RUSSIA.

The cultivation of beet and other sacchariferous plants is absolutely free in Russia. Sugar manufacturing alone is subject to taxation for revenue. This taxation includes:

(*a*) A license or manufacturing tax; and

(*b*) An excise duty collected on the quantity of crystallized sugar manufactured.

The foregoing taxation is not laid upon factories of noncrystallizable glucose (in the shape of sirup or cakes) manufactured with fecula or other substances.

The license tax is 5 rubles per 1,000 poods (1.38 cents per 100 pounds) of manufactured sugar, and the excise duty is assessed at the rate of 1.75 rubles per pood (=2.50 cents per pound).

For the license the manufacturer pays the tax on the basis of a supposed daily production and by multiplying that amount by one hundred. If at the end of the season the output should exceed that quantity the tax is levied on the difference.

When the tax has been paid in the shape of license it is not returned nor credited again when the license is renewed for the following year, nor in the event of the manufacturer's producing less sugar than the quantity for which he has paid the tax, nor even in the case where he should have not worked the establishment.

Exception is made to this rule in case of destruction of the factory by fire.

The refineries and sugar-making refineries which refine, besides the raw sugars of their own make, raw sugars from other factories, are subject to an additional license tax, determined as follows:

Before the beginning of operations the operators of such factories will pay 250 rubles for the first 50,000 poods of raw sugar taken into the factory for refinement.

They also pay an additional duty of 5 rubles for the next 1,000 poods of refined sugar that come out of the factory. As to the refining factories which only refine the raw sugars of their own make, the computation and payment of the additional license tax are made according to the rule set down for the sugar-making factory.

The excise duty on sugars is estimated according to the weight of manufactured sugar turned out by the factory. All the products turned out in incomplete condition, such as raw sugars, yellow sugars, brown sugars, boiled lumps, sirups, etc., with the exception of exhausted molasses, pay the same tax as sugar. In the factories where sugar making and refining are made in the same building, in adjoining buildings, or walled-in buildings, the excise tax is computed according to the weight of the sugar produced, as refined or in loaves, including the wrapping paper and twine. However, the excise tax on lump and powdered sugar is collected according to net weight.

If these factories use, in addition to the raw sugar of their own make, raw sugar already taxed and coming from other factories, the excise duty is only collected on the quantity of refined sugar in excess of the quantity of raw sugar taken into the factory; in addition the free delivery of molasses is granted in the proportion of 2 per cent of the quantity of the refined sugar made from raw sugar supplied by the factories. Any quantity over 2 per cent is taxed for the same amount as that collected on sugar.

The delivery of exhausted (black) molasses is permitted without payment of taxes to sugar making and refining factories. Exhausted molasses is taken to be a thick, viscous, deep-brown colored and unpleasantly flavored liquid, containing at most 55 per cent of sugar and at least 26 per cent of other matter (remainder being water).

The weighing of manufactured sugar is made under the conditions and at the time indicated in the statement handed by the manufacturer to the excise duty inspector. After weighing, the sugar is placed in a separate compartment for at least three hours from the time stated in the declaration. If the manufacturer deems it impossible to proceed with the weighing at the stated time, the weighing is postponed to a later date, which must be entered in the weighing book. Products that are to be subsequently manipulated in the factory shall not be placed where there is sugar already manufactured and weighed.

The employees of the factory management and the Government officials, if they are present when the weighing is done, enter each parcel in the books kept for that purpose. The total of daily weighings is subscribed by the attendants with a statement of the amount of tax due. All the packages are marked with consecutive numbers from the beginning of the manufacturing operations; in addition, the tare, as well as the net weight, of the sugar and the trade-mark must appear on those packages.

The delivery of sold quantities of raw sugar, refined sugar, sirup and molasses of different grades, is made in separate packages, containing at least five poods=180.5 pounds.

At the time when the sugar is taken out of the factory, the manufacturer pays 75 kopecks per pood (=1.07 cents per pound), and the remainder of the excise tax (1 ruble=1.43 cents per pound) is paid

in three installments: On the 1st of June, 1st of September, and the 1st of December. On the first installment one-third of the tax must be paid as previously computed. On the second installment the manufacturer takes a payment which, added to the first payment, represents two-thirds of the whole of the tax. On the third installment the manufacturer pays the remainder. In the event of nonpayment of the tax and matured installments, the manufacturer will have to pay for each month of delay a fine of 2 per cent of the unpaid amount until all that he owes shall have been paid, and the payment being due for the whole month after it has commenced.

Factories in which operations shall have begun after the 1st of September, 1896, will not be allowed to take out sugar until they shall have previously paid the whole amount of the excise duty (1.75 rubles=2.5 cents per pound).

The factory with all the depending property stands as a guaranty to the revenue for all payments appertaining to sugar manufacturing. If the amount due and accrued interest are not paid by the 1st of January, the factory, with all its dependencies, stock of machinery, stock of sugar, equipment, etc., will be sold at auction.

The excise duty on sugar exported abroad is refunded to the exporter according to the rate upon which the tax was levied—that is to say, at the rate of 1.75 rubles per pood (=2.5 cents per pound). With a view to regulating, in the common interest of the consumers and manufacturers, the production of sugar in Russia and in prevision of the possible crisis in that branch of industry, resulting from considerable overproduction of the staple, or a fall of price on the international markets, there is in existence since the year 1895, a special law under which the council of ministers determines for each sugar season:

1. The quantity of sugar required to supply the requirements of the country and which can be freely placed upon the home markets by the manufacturers.

2. The quantity of sugar which the manufacturers are compelled to keep in an immovable reserve (to be sold in case of a rise of prices beyond the settled limits), and

3. The maximum of prices by virtue of which the said immovable reserve of the manufacturers must remain untouched in the factories, as well as the conditions under which the sugar thus reserved will be allowed to be placed on the market. The quantity of sugar produced over and above the figure determined for home consumption is considered to be a surplus of production, and subject to an additional tax at the rate of 1.75 rubles per pood (=2.5 cents per pound).[1]

The surplus[2] is distributed among the factories in proportion to the quantity of sugar produced by each one over and above the 60,000 poods remaining available.

The compulsory reserve of sugar which is to be kept by each factory in immovable stock is made up of a quantity of sugar manufactured over and above the normal production, by taking the requisite percentage of such surplus according to the amount of the reserve as fixed.

[1] That is to say, a surtax, the rate of which is equivalent to the excise duty, so that all sugar in excess of the so-called normal production pays a double tax.

[2] The difference between the total quantity which is permitted to be sold in the domestic market and the "normal" output of all factories, i. e., 60,000 poods, multiplied by number of factories.

That part of the sugar which is in excess of the production can not be placed on the home markets except after previous payment of the additional tax, the excise duties being paid in accordance with the general regulations. However, manufacturers are allowed to keep this sugar as available stock, and in this case as long as the sugar is in the factory the manufacturers will not be held to pay either the said tax or the excise duty.

The sugar which is part of the immovable stock (compulsory) is also not liable to the tax nor the excise duty as long as it remains in the factory. At the close of the sugar season the sugar of that stock must be replaced by sugar of the later production.

If the prices should rise beyond the determined limits the minister of finance permits the delivery of the sugar in the compulsory reserve and in the available stock (if it be necessary) in such quantities as will suffice to bring about a fall in the prices. In the latter case the sugar of said stocks only pays the excise duty and is exempted from the additional tax. The collected tax is refunded on sugar exported abroad, with the exception of the license tax, which remains in the treasury, but the minister of finance is empowered, in the event of a rise in the prices of foreign markets, which would promote a considerable overproduction of sugar in the country, to lay before the council of ministers a draft of a law with a view to diminishing or even completely abolishing the refundment of the excise duty for a certain period.

All additional regulations that it may be necessary to make by virtue of the law of November 20, 1895, in regard to the accounting books of the factories in respect to the additional tax, to the computation of annual production, to the surplus of normal production, compulsory reserve, exportation of sugar in excess of the production, etc., are issued by the minister of finance in all necessary cases in consultation with the comptroller of the State.

The duration of this law, which originally only contemplated the sugar seasons of 1895–96, 1896–97, and 1897–98, has now been extended, without any term for its duration being fixed.

SUMMING UP OF THE FISCAL RÉGIME NOW IN EXISTENCE.

The rate of customs duties on foreign sugars is 3 rubles (4.28 cents per pound) on raw sugar and 4 rubles (=5.71 cents per pound) on refined sugars per pood, and payable in gold.

There is no surtax.

The rate of the excise duty is 1.75 rubles per pood (= 2.5 cents per pound); the manufacturing tax (license) is 5 rubles per 1,000 poods (= 1.38 cents per 100 pounds) of raw sugar. Refining is subject to an additional tax at the rate of 5 rubles per 1,000 poods (= 1.38 cents per 100 pounds) of refined sugar.

There is no bounty granted to exported sugar. The excise duty only is refunded to the exporter, in accordance with the rate that has been collected (1.75 rubles per pood = 2.5 cents per pound).

There is no drawback (refundment of the customs duty collected on foreign sugars when reexported).

N. B.—One pood = 16.380 kilos (= 36.1 pounds); 1 berkovetz = 10 poods (= 361 pounds); 1 ruble = 2.667 francs = 25½ pence = 2.16 marks (= 51.5 cents).

Production.

Periods of manufacture.	Number of factories.	Quantity of beets operated on.	Quantity of sugar produced.
		Berkovetz.	*Poods.*
1883–84	244	22,149,000	18,859,739
1884–85	245	24,631,238	20,958,120
1885–86	241	33,669,974	29,039,594
1886–87	229	28,734,639	25,949,631
1887–88	218	26,068,419	23,749,028
1888–89	230	28,046,827	28,393,327
1889–90	230	26,703,226	24,606,372
1890–91	223	30,199,018	28,475,430
1891–92	227	26,255,612	29,649,882
1892–93	224	22,286,515	24,388,289
1893–94	226	34,477,730	35,315,571
1894–95	227	33,195,549	32,802,605
1895–96	230	33,600,568	41,481,771
1896–97	235	34,990,840	38,800,510

Importation and exportation.

Years.	Importation.		Exportation.	
	Raw sugar.	Refined sugar.	Raw sugar.	Refined sugar.
	Poods.	*Poods.*	*Thousand poods.*	*Thousand poods.*
1883	49,760	25,382	8,143	
1884	1,196	13,560	33,898	
1885	2,193	4,883	4,014.2	93.3
1886	1,429	3,396	3,366.4	505.0
1887	2,858	2,417	3,143.8	840.5
1888	1,045	2,826	4,259.3	1,043.4
1889	1,789	2,769	3,810.6	1,139.4
1890	32,204	5,189	2,351.3	810.2
1891	2,920	5,640	6,322.2	1,153.1
1892	1,528	5,812	1,951.3	908.4
1893	1,686,876	5,180	1,178.4	941.4
1894	960	4,664	4,017.4	1,242.0
1895	775	9,861	4,149.0	1,525.7
1896	990	19,015	12,187.0	1,402.5

Consumption.

Periods of manufacture.	Quantity.	Periods of manufacture.	Quantity.
	Poods.		*Poods.*
1887–88	21,324,065	1893–94	28,942,441
1888–89	22,145,587	1894–95	27,058,942
1889–90	22,790,772	1895–96	27,800,000
1890–91	23,271,136	1896–97	30,874,000
1891–92	24,749,895	1897–98	33,000,000
1892–93	24,873,440		

Receipts.

Years.	Total tax (excise) and license dues.	Years.	Total tax (excise) and license dues.
	Rubles.		*Rubles.*
1883	8,878,223	1890	21,629,305
1884	12,395,764	1891	20,857,442
1885	13,862,592	1892	27,709,512
1886	15,859,180	1893	30,340,336
1887	25,410,143	1894	41,230,264
1888	19,446,715	1895	47,686,567
1889	19,345,736	1896	42,657,169

SWEDEN.

CUSTOMS DUTIES (PER KILO).

Sugar:	Ore.
Refined of all kinds	33
Not refined—	
Not darker than No. 18, Dutch standard	33
Darker than No. 18 of same standard	23.5
Sirups and molasses	10

DRAWBACK.

For sugar in loaves, cakes, or sugar candied or refined in the country from raw sugar imported from abroad and having paid the customs duties, the drawback is 28.2 ore per kilo.

The tax is not refunded for native beet sugar when exported; there is, therefore, no export bounty of any description whatsoever.

Under these circumstances, it is probable that no native beet sugar is exported.

BEET-SUGAR MANUFACTURING.

The ordinance concerning taxation of beet-sugar manufacturing, which in its essential parts is still in force, is dated May 19, 1893.

That tax was, and still is, a tax on sugar beets based upon the yield in sugar of 100 kilos of crude nondried beets, and carries for each kilogram of sugar one-half of the duty laid upon nonrefined sugar darker than No. 18 of the Dutch standard.

The yield in sugar has been fixed since the 1st of September, 1896, at 10½ per cent, and the customs duties on nonrefined sugar being 23½ ore per kilo, the tax consequently amounts to 12 crowns 33 ore[1] per metric ton of utilized beets.

All factories, however, are not subject to the same tax, for in order to promote the erection of new factories the Diet of 1893 decreed that such new factories as should be erected at a distance of more than 30 kilometers from another factory in operation would be allowed a bonus on the rate of the yield in sugar at the rate of 2 kilos during the first three years of operation and for the following two years at the rate of 1 kilo per 100 kilos of beets.

The island of Gotland was even more favored in this respect than the Swedish continent, in this way: For the first factory therein established the yield in sugar of 100 kilos of beets would be computed during the first three years of manufacture at 3 kilos less than the rate of yield fixed for a factory of longer standing in the country, and for the two following years at 2 kilos less.

There are at present four factories enjoying the exceptional conditions above mentioned. These advantages, however, will cease on the 1st of September, 1900, and no factory put in operation after the 1st of September, 1896, is entitled to any reduction of the rate of yield in sugar.

The supervision of beet-sugar factories is exercised in the first place by the chief of the bureau of control and verification at the royal ministry of finance and under his orders by chief controllers and controllers. Controllers must number four in factories where work is carried on uninterruptedly night and day, and two only in factories

[1] The crown of 100 ore is worth on an average 1.39 francs—equals 26.8 cents.

that are only operated by day. Nevertheless, a larger number of controllers may be designated for each factory when circumstances so require. The controllers have to supervise the weighing of the beets; the scales necessary for the purpose must be supplied by the manufacturer.

The manufacturer must also keep a book in which it will be easy to ascertain the quantities of the different products of sugar extracted from the beets used in the factory. There are also entered in that book such data as may be necessary for arriving at reliable statistics of the manufacture.

That book must be held at the disposal of the chief controller under whose surveillance the factory is placed.

In three of the nineteen factories now existing the operations are confined to extracting juice out of the beets.

The factories erected in the course of the past years are very large; some of them are capable, if necessary, of consuming 1,000 metric tons of beets daily.

CONSUMPTION.

The quantity of sugar manufactured in the country now nearly meeting its requirements, the importation of sugar, whether raw or refined, has fallen to an insignificant figure. The importation of sirups produced in the course of refining has, on the other hand, perceptibly increased in the course of the few past years and now reaches the figure of about 14,000,000 kilos.

The consumption of sugars of all kinds has doubled since the beginning of 1880 and may now be estimated on the basis of raw sugar at between 18 and 20 kilos for each inhabitant.

A portion of the molasses obtained in the beet-sugar factories is treated by special process for the extraction of sugar; other quantities of such molasses are used in the manufacture of alcohol and yeast. In more recent times, however, molasses commenced to be used in large quantities for cattle food. During the decade of 1880-1890 and at the beginning of the following decade nearly all the molasses was exported to France. This export has now almost entirely ceased.

Manufacture of beet sugar.

Years of manufacture.	Number of factories.	Beets consumed.	Average quantity of beets consumed in each factory.	Production of—		Yield per cent of the weight of beets.	
				Raw sugar of all kinds.	Molasses.	Raw sugar.	Molasses.
		Metric tons.	*Metric tons.*	*Metric tons.*	*Metric tons.*		
1883-84	2	37,829	18,914	2,953.2	1,698.3	7.18	4.48
1884-85	2	47,173	23,586	4,298.8	1,584.0	9.11	3.36
1885-86	3	43,259	14,419	3,919.0	1,367.4	9.06	3.16
1886-87	3	56,385	18,795	5,806.8	1,907.6	10.30	2.85
1887-88	3	83,605	27,868	9,176.1	2,487.3	10.98	2.97
1888-89	4	86,111	21,525	8,889.7	3,179.3	10.31	3.69
1889-90	4	136,813	34,203	14,625.5	4,278.7	10.69	3.13
1890-91	6	218,229	36,372	20,631.6	7,123.9	9.45	3.26
1891-92	8	260,064	32,509	26,842.5	7,628.0	10.32	2.93
1892-93	10	277,443	27,745	29,919.9	7,940.0	10.78	2.86
1893-94	10	373,962	37,396	43,167.5	9,539.0	10.80	2.55
1894-95	17	628,180	36,969	72,890.4	17,597.0	11.60	2.80
1895-96	18	535,149	[1]31,479	57,511.7	15,733.0	11.75	2.94
1896-97	19	890,240	46,855	105,556.2	25,615.8	11.86	2.88
1897-98	19	716,141	37,692				

[1] The output of a factory that was destroyed by fire shortly after it began operations has not been taken into account in the computation of averages.

Production, importation, consumption, amount of receipts.

Years.	Domestic production.	Imports of refined sugar.	Importation.		Consumption of sugar and sirups reckoned as raw sugar.[1]	Customs duties collected on sugar and refinery sirups.	Manufacturing tax collected on domestic sugar.	Total receipts collected by the State on sugar.
			Raw sugar.	Refinery sirups.				
	Met. tons.	*Met. tons.*	*Met. tons.*	*Met. tons.*	*Met. tons.*	*Crowns.*	*Crowns.*	*Crowns.*
1883	1,957	13,725	26,924	8,163	48,059	11,688,000	129,888	11,818,000
1884	3,655	16,521	25,115	8,270	51,078	12,199,000	258,005	12,457,000
1885	4,940	12,766	25,528	7,572	48,296	10,860,000	384,262	11,244,000
1886	5,058	13,371	26,218	8,152	50,060	11,434,000	323,020	11,757,000
1887	5,953	11,179	28,882	7,600	50,931	11,246,000	346,282	11,592,000
1888	9,358	9,267	29,143	8,572	52,980	10,767,000	544,345	11,211,000
1889	10,822	11,408	29,079	10,577	57,737	11,657,000	635,812	12,293,000
1890	16,307	11,605	29,968	10,588	64,334	11,901,000	907,976	12,899,000
1891	25,879	8,068	23,642	10,228	63,510	9,942,000	1,846,588	11,789,000
1892	31,089	6,701	24,328	11,001	68,288	9,055,000	2,260,495	11,315,000
1893	34,128	4,273	26,582	11,775	71,297	8,834,000	2,718,927	11,553,000
1894	57,919	4,194	17,102	12,253	85,760	6,628,000	4,723,274	11,351,000
1895	79,355	1,146	3,040	13,284	90,627	2,519,000	7,130,148	9,658,000
1896	73,753	826	3,996	13,882	85,598	2,508,000	7,726,000	9,817,000
1897	93,778	[2]221	[2]822	[2]13,167	[2]103,426	[2]1,583,000	11,008,906	[2]12,591,000

[1] 110 kilos of raw sugar or 200 kilos of refinery sirups are considered as yielding 100 kilos of refined sugar.

[2] This figure is only approximate.

NOTE.—One metric ton equals 2204.6 pounds; 1 crown equals 26.8 cents.

31306

CORRESPONDENCE EXCHANGED BETWEEN THE BELGIAN GOVERNMENT AND THE GOVERNMENTS OF FRANCE, GREAT BRITAIN, AND RUSSIA RESPECTING THE PROGRAMME OF THE CONFERENCE.

FRANCE.

1. Letter of Mr. de Favereau, minister for foreign affairs at Brussels, to Baron d'Anethan, envoy extraordinary and minister plenipotentiary of Belgium at Paris.

BRUSSELS, *January 12, 1898.*

MR. BARON: By a telegram of the 30th of December last I requested you to announce to the Government near which you discharge your duties that we would shortly be in a position to send it an official invitation to the international conference which the Government of the King has decided to call with a view of examining the questions of suppressing sugar-export bounties.

I now beg you, Mr. Baron, to be so good as to send urgently to the Cabinet at Paris an invitation couched in the words of the draft herewith inclosed.

In view of the very short time which separates us from the date provisionally fixed for the convening of the conference, I would attach importance to receiving as soon as possible the answer of the Government of the Republic. According to press reports, the British Government seems to be inclined to take measures in order to react against the system of export bounties; on the other hand, while Russian legislation does not grant bounties to exported sugars, the customs duties on imports are so high that, should an agreement be reached among the producers, an influence analogous to that of export bounties would be exerted on economical conditions of exportation. Under these circumstances, it seemed expedient to approach the cabinets of London and St. Petersburg on the point of knowing whether it would be agreeable to them that the Government of the King take the initiative of suggesting to beet-sugar-exporting countries in Europe that England and Russia be included among the countries to which an invitation should be sent.

Be good enough, I beg you, Mr. Baron, to communicate the foregoing orally to the minister for foreign affairs and to announce to his excellency that we shall acquaint him in good time with the answers that will be sent us in the matter by our ministers at London and St. Petersburg. This oral communication may be made when you deliver the invitation, the text of which is herewith inclosed.

Accept, etc.,

DE FAVEREAU.

[Inclosure.]

MR. ———: The Government of the King, convinced of the usefulness of submitting to the deliberations of an international conference the question of the suppression of sugar export bounties and points connected with that question, has decided to invite the governments of beet-sugar-exporting countries in Europe to designate delegates for the purpose of examining in common accord the points in question.

I am therefore instructed, Mr. ———, to ask the Government of the Republic kindly to take steps to have itself represented at the conference, which, if the indicated time should obtain the assent of the several countries concerned, would meet at Brussels on or about the 16th of February next.

The same invitation has been addressed to the Governments of Germany, Austria-Hungary, and the Netherlands.

I seize the opportunity, etc.

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2. Letter of Mr. Baron d'Anethan to Mr. de Favereau.

PARIS, *March 7, 1898.*

MR. MINISTER: In reply to your letter of the 12th of January last, I have the honor to inform you that Mr. Hanotaux has just thanked me for my note of the 13th of the same month by which I invited the Government of the Republic to participate in an international conference to meet at Brussels, and to which the Governments of beet-sugar exporting countries in Europe would send delegates to examine in common accord the question of the suppression of export bounties granted to that staple.

His Excellency requests me at the same time to advise you that the Government of the Republic being, like the Government of the King, of the opinion that the abolition of export bounties allowed to sugars would be an advantageous measure in many respects, is inclined, in principle, to take part in a conference at which all the countries interested should be represented and in which diverging opinions might consequently arrive at mutual compromises after exhaustive debates.

It must, however, be well understood, adds the minister for foreign affairs, that in the opinion of the Government of the Republic the discussion shall bear exclusively upon the question of export bounties and that the internal régime of each State, viz, as regards France, that which results from the law of July 29, 1884, will remain without the scope of the debates of the conference.

Accept, etc., BARON D'ANETHAN.

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3. Letter of Mr. de Favereau to Baron d'Anethan.

BRUSSELS, *March 15, 1898.*

MR. BARON: By your letter of March 7 instant you were good enough to advise me that the French Government is inclined to take part in the sugar conference called by the Government of the King.

While notifying his acceptance the minister for foreign affairs formulated certain observations touching the programme of the contemplated conference.

I shall thank you kindly to address him in this respect the letter of which you will find a draft herewith.

Accept, etc., DE FAVEREAU.

[Inclosure.]

MR. MINISTER: By your letter of ——— your excellency was good enough to inform me that the French Government was inclined to take part in the sugar conference called by the Government of the King.

Your excellency deems it, however, your duty to join with your acceptance some observations that would chiefly tend to leaving without the scope of the debates of the conference certain points touching the French law of July 29, 1884.

I may declare to your excellency that the intention of the Government of the King in adopting the formula which in its invitations defines the objects of the conference was to assign for its essential aim the suppression of export bounties. While the formula also adverts to "points connected" with that main question, it is solely for the purpose of enabling the conference to look into that question in all its magnitude.

Moreover, it would seem that propositions intended to practically define the scope of the discussions would be presented to better purpose in the conference itself.

I seize this opportunity, etc.

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4. Letter of his excellency Mr. Gérard, envoy extraordinary and minister plenipotentiary of France, to Mr. de Favereau.

BRUSSELS, *May 24, 1898.*

MR. MINISTER: The president of the Council of the Republic, minister of agriculture, has just designated to represent the Government of the Republic at the international conference which is to meet at Brussels for the purpose of examining the bases for an international agreement having for its object the suppression of the sugar-export bounty:

As delegates: Mr. Ribot, deputy; Mr. Bousquet, councilor of state, director-general of customs; Mr. Delatour, councilor of state, director-general of the internal revenue.

As assistant delegate: Mr. Dechaud, honorary administrator of the internal revenue.

I am instructed by my Government to notify these designations to the Royal Government. I am charged to recall at the same time that the Government of the Republic is having itself represented at the international conference at Brussels under the express reservation that the discussions will bear exclusively upon the questions of export bounties, and that the internal régime, viz, as regards France that which results from the law of July 29, 1884, will be kept out of the debates.

Accept, etc., A. GERARD.

GREAT BRITAIN.

1. Letter of Mr. de Favereau, minister for foreign affairs at Brussels, to Baron Whettnall, envoy extraordinary and minister plenipotentiary of Belgium at London.

BRUSSELS, *January 7, 1898.*

MR. BARON: The Government of the King proposes to invite the beet-sugar exporting countries of Europe to a conference, the object of which would be to examine the question of the suppression of bounties and the points connected therewith.

I would thank you, Mr. Baron, to ask the minister for foreign affairs whether, as announced by the press, the British Government is inclined

to take measures in order to react against the régime of export bounties by which the interests and the production of its colonies are affected.

If it should be so, and assuming of course that such proposition would meet the assent of the London Cabinet, we would willingly assume the initiative of proposing on behalf of England to the other Governments a derogation from the rule according to which beet-sugar exporting countries only should be invited.

Accept, etc.,

DE FAVEREAU.

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2. Letter of Mr. de Favereau to Baron Whettnall.

BRUSSELS, *January 13, 1898.*

MR. BARON: I am in possession of your letter of the 11th instant relative to the forthcoming sugar conference.

In order to enable you to supply the information asked of you by Mr. Curzon concerning the composition of the said conference, I have the honor to inform you that the countries that have been invited to send representatives are Germany, Austria-Hungary, France, and The Netherlands.

My letter of the 7th of January indicated the reasons which impelled us to ask England whether it would be agreeable for her to join beet-sugar exporting countries in Europe in a common examination of the questions that will be laid before the forthcoming conference.

I deemed it expedient to charge at the same time the minister of the King at St. Petersburg to take a similar step with the Russian Government. While Russian legislation does not grant bounties to exported sugars, the customs duties on imports are so high that, should an agreement be reached among the producers, an influence analogous to that of export bounties would be exerted on economical conditions of exportation. Under that head it seems desirable that Russia be admitted to participate in the conference which will undoubtedly be called upon to examine the question of customs duties in the course of its deliberations.

Our minister has not as yet let me know the views of the Imperial Government.

Accept, etc., DE FAVEREAU.

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3. Letter of Baron Whettnall to Mr. de Favereau.

LONDON, *January 26, 1898.*

MR. MINISTER: I have just received from Lord Salisbury another communication relative to the forthcoming convening of the sugar conference at Brussels.

Before deciding whether it will participate, the British Government wishes to know exactly:

What will be the object of the discussion:

Whether the debate will bear at once upon the direct and indirect exportation bounties.

Accept, etc., BARON WHETTNALL.

4. Letter of Mr. de Favereau to Baron Whettnall.

BRUSSELS, *January 28, 1898.*

MR. BARON: I am in possession of your letter of the 26th of January relative to the forthcoming sugar conference.

In reply to the inquiry made by Lord Salisbury, I have the honor to inform you that the main object of the conference will be the question of the suppression of export bounties.

Not only will the discussion be allowed to bear upon export bounties, but it has also seemed desirable that the scope of the deliberations be broadened so as to permit also of the examination of points that might seem connected with the main question above indicated and notably all the advantages of a such nature as to promote sugar exportation. It is with that purpose that invitations mention for the object of the conference "the question of the suppression of sugar export bounties and points connected therewith."

Be good enough, I beg you, Mr. Baron, to communicate these indications to the London cabinet, and accept, etc.,

DE FAVEREAU.

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5. Letter of Mr. de Favereau to Baron Whettnall.

BRUSSELS, *February 4, 1898.*

MR. BARON: With the assent of the Governments of the four countries heretofore invited by Belgium to participate in the sugar conference, viz, Germany, Austria-Hungary, France and the Netherlands, I beg you to invite the Government of Her Britannic Majesty to have itself also represented at that international meeting.

You will be good enough to address to the minister for foreign affairs a communication couched in the words of the inclosed draft.

Accept, etc.,

DE FAVEREAU.

[Inclosure.]

MR. ———: The Government of the King has invited Germany, Austria-Hungary, France, and the Netherlands—beet sugar-exporting countries—to take part in an international conference that will be held at Brussels for the purpose of examining the question of the suppression of sugar export bounties and the points connected therewith.

The Governments of those countries being in accord with the Government of the King in recognizing the usefulness of a participation of Great Britain in the contemplated conference, I am charged to ask the Government of Her Britannic Majesty to kindly send representatives to that international meeting.

The original proposition was that the conference should begin its labors about the 15th of this present month. I shall have the honor, Mr. ———, to inform your excellency in good time of the date that may be finally fixed for the opening of the said conference.

I seize, etc.

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6. Letter of Baron Whettnall to Mr. de Favereau.

LONDON, *February 11, 1898.*

MR. MINISTER: In obedience to the instructions of your dispatch of the 4th of February relative to the forthcoming sugar conference, I

had addressed to the British Government an invitation couched in the words of the draft which you were pleased to inclose.

I am in receipt of the answer, of which I hasten to send you a copy, while requesting you, Mr. Minister, to kindly enable me to furnish the British Government with the required explanations.

Accept, etc.,

BARON WHETTNALL.

[Inclosure.]

FOREIGN OFFICE, *February 10, 1898.*

SIR: With reference to your note of the 31st of January, stating the object and the basis of discussion of the proposed sugar conference, I should be grateful if you could further inform me more precisely whether the scope of the conference will include the suppression of internal bounties upon the production of beet and beet sugar.

I have, etc.,

SALISBURY.

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7. Letter of Mr. de Favereau to Baron Whettnall.

BRUSSELS, *February 16, 1898.*

MR. BARON: I am in possession of your letter of the 11th of February relative to the sugar conference.

As set forth in my letter of January 28 last, the main object of the conference will be the suppression of export bounties. In order, however, that this question may be considered in all its phases, and in order to avoid that such points as might seem connected with that main question be kept out of the deliberations of the conference as foreign to its programme, it seemed desirable to broaden the field of the discussion by adopting the formula indicated in the invitation which you sent to the British Government, and according to which the purpose of the conference will be to examine "the question of the suppression of sugar export bounties and the points connected therewith."

This formula will enable the conference to examine the points mentioned in Lord Salisbury's letter of the 10th of this month.

Be good enough, I beg you Mr. Baron, to communicate the foregoing to his excellency, and accept, etc.,

DE FAVEREAU.

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8. Letter of Baron Whettnall to Mr. de Favereau.

LONDON, *March 9, 1898.*

MR. MINISTER: I lost no time in transmitting to the foreign office the additional particulars which you were good enough to supply me with in your dispatch of the 16th of February touching the programme of the forthcoming sugar conference. I have just received a dispatch dated March 8, by which Mr. Curzon, for Lord Salisbury, informs me that the Government of Her Britannic Majesty accepts the invitation of the Government of the King.

Accept, etc.,

BARON WHETTNALL.

RUSSIA.

1. Letter of Mr. de Favereau, minister of foreign affairs at Brussels, to Mr. Le Ghait, envoy extraordinary and minister plenipotentiary of Belgium at St. Petersburg.

BRUSSELS, *January 7, 1898.*

MR. MINISTER: The Government of the King proposes to invite beet-sugar exporting countries in Europe to a conference whose purpose would be to examine the question of the suppression of bounties and the points connected therewith.

Russian legislation does not grant bounties to exported sugars, but the duties that it collects on imports are high enough to influence economical conditions of exportation in the same manner as could be done by export bounties. Native producers organized in a syndicate have been enabled, indeed, thanks to the rates of customs duties, to get the upper hand of the home market, and thus establish for the sale of their products abroad reduced prices which, in a large measure, promote their exportation.

It is not doubtful, Mr. Minister, that the question of customs duties will be considered in the course of the deliberations of the conference.

Be good enough, I beg you, Mr. Minister, to approach the minister of foreign affairs as soon as practicable and ascertain whether it would be agreeable for him under these circumstances that we suggest to the other Governments to include Russia among the countries to which an invitation will be addressed.

I should like to be advised as soon as you shall have discharged the instructions contained in this letter.

Accept, etc.,

DE FAVEREAU.

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2. Letter of Mr. Le Ghait to Mr. de Favereau.

ST. PETERSBURG, *January 19, 1898.*

MR. MINISTER: In continuation of your letter of the 7th of this month I have the honor to inform you that on the 11th instant I took at the ministry of foreign affairs the step directed by you.

It seems that the Russian Government is not inclined to consider the question of customs duties. The proposition of the Belgian Government has been referred to the minister of finance and his opinion is awaited in order to return a final answer.

Accept, etc.,

LE GHAIT.

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3. Telegram addressed by Mr. de Favereau to Mr. Le Ghait.

BRUSSELS, *January 25, 1898.*

MINISTER BELGIUM, *St. Petersburg:*

Bounty question will be main object sugar conference, but necessary foresee examination of points connected therewith without presuming to demand conventional solution on all questions examined. Letter follows.

DE FAVEREAU.

4. Letter of Mr. de Favereau to Mr. Le Ghait.

BRUSSELS, *January 25, 1898.*

MR. MINISTER: I am in possession of your letter of the 19th of this month relative to the forthcoming sugar conference.

According to the letters of invitation addressed to the several Governments, the conference will have for its object the examination of the "question of the suppression of the sugar export bounties and points connected therewith."

The main object of the conference will then be the question of the suppression of the bounties. In order, however, that this question may be considered in all its phases, and in order to avoid that any point which might be closely bound to the bounty question be kept out of the deliberations of the conference as being foreign to its programme, it seemed desirable to broaden the field of discussion by adopting the formula above transcribed. Moreover, it is to be noticed that we refrained from specially indicating the question of customs duties rather than any other point connected with the suppression of the bounties.

It is hardly necessary for me to add, Mr. Minister, that the fact of having formulated in the above given words the object of the conference does not imply that conventional provisions which would restrain the freedom of action of the Governments in regard to customs duties must necessarily be adopted.

Again, the eventual examination of the question of duties laid upon imported sugars would not aim at the principle itself of customs duties nor at the protection of home markets, but contemplates the examination of economical consequences that the application of such duties might entail in situations to be foreseen.

Be good enough, I beg you, Mr. Minister, to communicate to the Imperial Government the remarks set forth in this letter, the mailing of which was announced to you in my telegram of this day.

Accept, etc.,

DE FAVEREAU.

Telegram sent by Mr. Le Ghait to Mr. de Favereau.

ST. PETERSBURG, *February 22, 1898.*

Russia will accept invitation conference with programme of your letter of January 25.

LE GHAIT.

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6. Letter of Mr. Le Ghait to Mr. de Favereau.

ST. PETERSBURG, *February 22, 1898.*

MR. MINISTER: I had the honor this morning of wiring you as follows:

Russia will accept invitation conference with programme of your letter of January 25.

It was not until yesterday that I secured at the ministry of finance an oral assurance that the Imperial Government will accept the invita-

tion to attend the forthcoming sugar conference with the programme indicated in your letter of January 25, that is to say, that the purpose of the conference will be to examine the question of the suppression of exports bounties and points connected therewith without such points involving the adoption of conventional provisions by which the freedom of action of the Government would be restricted.

As soon as I shall receive the written reply of the Imperial Government I shall be careful to transmit to you the text thereof.

Accept, etc.,

LE GHAIT.

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7. Letter of Mr. Le Ghait to Mr. de Favereau.

ST. PETERSBURG, *March 3, 1898.*

MR. MINISTER: In continuation of my letter of the 22d of February last, I have the honor to transmit to you hereunder a copy of the final answer of the Imperial Government concerning the sugar conference. This communication was not sent to me until to-day.

The minister of finance informs me that he has no objection to raise against the programme of the conference as set forth in your last note. Mr. Witte adds, however, that the participation of the Imperial Government in the conference remains contingent on the condition that the decisions of the conference will not in any case be allowed to infringe upon the freedom of action of the several Governments as regards customs duties on sugars as well as internal excise duties.

Accept, etc.,

LE GHAIT.

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8. Letter of Mr. de Favereau to Mr. Le Ghait.

BRUSSELS, *March 15, 1898.*

MR. MINISTER: By your letter of March 3 instant, you were good enough to bring to my knowledge the official answer of the Imperial Government to the inquiry you had made in view of knowing whether it would be agreeable for it to receive an invitation to the sugar conference.

The Government of the King has learned with satisfaction that the cabinet at St. Petersburg is in accord with it regarding the programme outlined for the deliberations of that international meeting.

It goes without saying that the adoption of that programme for the scope of the debates will in no way prejudge the ultimate decision; moreover, observations similar to those formulated in the answer of the Imperial Government can, it seems, be offered to the best advantage in the conference itself.

Be good enough, I beg you, Mr. Minister, to send to the cabinet at St. Petersburg a communication in the sense above indicated, and be pleased to accept, etc.,

DE FAVEREAU.

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9. Letter of Mr. de Favereau to Mr. Le Ghait.

BRUSSELS, *March 31, 1898.*

MR. MINISTER: Pursuant to the information transmitted by you in regard to the views of the cabinet at St. Petersburg, I have now, in accord with the governments of the four countries originally invited

to take part in the sugar conference, viz, Germany, Austria-Hungary, France, and the Netherlands, to request you to invite the Imperial Government to send also representatives to that international meeting.

You will be good enough to address to that end a communication couched in the words of the inclosed draft to the minister for foreign affairs.

Accept, etc., DE FAVEREAU.

[Inclosure.]

Mr. ———: The Government of the King has invited Germany, Austria-Hungary, France, and the Netherlands—beet-sugar exporting countries—to take part in an international conference which will be held at Brussels for the purpose of examining the question of the suppression of sugar export bounties and points connected therewith.

The Governments of those countries being in accord with the Government of the King as to recognizing the usefulness of a participation of Russia in the conference in question, I am charged to ask that the Imperial Government may be pleased to send representatives to that international meeting, which will enter upon its labors on the 7th of June next.

I may add that the British Government, whose participation was likewise deemed desirable by the Governments of the above-mentioned countries, has decided to take part in the conference.

I seize, etc.

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10. Letter of Mr. Le Ghait to Mr. Favereau.

ST. PETERSBURG, *May 9, 1898.*

MR. MINISTER: In continuation of your letter of March 31 last, I have the honor to bring to your knowledge that, according to a note I have just received from the Imperial Government, the councilor of state, Raffalovich, commercial agent of Russia at Paris, has been designated to represent it at the international sugar conference that will be held at Brussels on the 7th of June next.

Accept, etc., LE GHAIT.

NOTES HANDED BY THE DELEGATIONS IN REGARD TO REFINING PROVISIONS IN FORCE IN THE SEVERAL COUNTRIES.

GERMANY.

The question of yield in refining is one of slight importance for Germany as regards taxation and customs duties.

According to the law regulating sugars, native beet sugars are subject to a consumption tax (Zuckersteuer), and in order to insure the collection of that tax, sugar manufacture is placed under the surveillance of the revenue.

Is considered as native sugar, in the meaning of the law, any sugar extracted in the country directly out of beets, of products derived in Germany from the beet, whether liquid or solid, including beet juice, boiled lumps, drainings (sirups, molasses, etc.), without making any distinction as to whether other sugars or other sugared products have been used in the manufacturing. The operation of products extracted from the beet root includes especially the extraction of the saccharine substance of such products, the refining of drainings (sirups, molasses, etc.), the refining of raw sugar, the liquefaction of raw sugar and the inversion. (Paragraph 1 of the law of May 27, 1896.)

The tax on sugar is fixed at 20 marks per 100 kilos net.

Beet juice and wastes of manufacture are not liable to the sugar tax. The right to apply the total or partial tax to waste of manufacture and beet juice, as well as to mixtures of wastes with beet juice or the mixture of these substances with others, except, however, beet juice and mixtures containing juices that are exclusively prepared in households, to be there consumed, is reserved to the federal council. The provisions concerning the object and amount of taxes on sugar established by the federal council must be submitted to the approval of the Reichstag. (Paragraph 2 of the law.)

Availing itself of the above-mentioned faculty, the federal council has laid upon the drainings (sirups, molasses), crude or treated, whose coefficient is at least 70 per cent (see paragraph 1 of the regulations of the federal council), a reduced tax of 14 marks per 100 kilos net.

The tax must be collected as soon as the sugar is withdrawn from the surveillance of the revenue and is placed in free circulation. The tax must be paid by whoever secures the right of freely disposing of the sugar.

The sugar is security for the payment of the tax without regard to rights of third parties.

The payment of the sugar tax is deferred upon the filing of certain bonds. When it is only a question of three months' delay, the payment of the tax may be postponed without a filing of bonds, insomuch as the taxpayer be known as responsible. (Paragraph 3 of the law.)

Sugar exported under the supervision of the revenue is exempt from

the payment of the tax. Sugar otherwise exported is not entitled to any refundment of the tax. (Paragraph 5 of the law.)

The customs duties on sugar, solid or liquid, of any kind, is 20 marks per 100 kilos. Beet juices, boiled lumps, and drainings (sirups, molasses) are considered as sugars. (Paragraph 80 of the law.)

When foreign sugar is shipped under revenue supervision to a native factory, there to be again treated, the revenue authorities may collect a reduced customs duty of 20 marks per 100 kilos net, and then treat the admitted sugar as native beet sugar, upon which no tax has yet been paid. (Paragraph 81 of the law.)

When once paid, the customs duties are never reimbursed in any case.

AUSTRIA-HUNGARY.

The question of wastes of manufacture does not exist in Austria-Hungary.

Sugar is not taxed until the time when it enters into consumption. In this wise the quantity of wastes is interesting only for the manufacturer, and not for the Treasury, which has knowledge of them through its permanent controllers without attaching any importance thereto.

The tax is the same for sugars of all quality, and even for molasses when fit for consumption. Consequently, none but the refined sugar is consumed in Austria-Hungary.

Molasses unfit for consumption (containing less than 54 per cent of of sugar and over 7 per cent of ashes, at the rate of 75 per cent of dry matter), do not pay any tax.

Exported sugar enjoys a bounty of 1.50 florins or 1.60 florins for the two qualities of raw sugar and of 2.30 florins for refined sugar.

These bounties are reduced proportionately to the sum maximum of 9,000,000 florins for Austro-Hungarian bounties.

BELGIUM.

The Belgian legislation in regard to refining is very simple. It confines itself to determining the rate of the drawback for refined sugar, properly so called, and "vergeoises," as well as the duration of the credit terms, which are of two months only. It regulates certain operations and the transfer of accounts.

Raw sugar being taxed at the rate of 45 francs for a presumed yield of 88°—that is to say, 0.5113 per unit—the rate of which the accounts are credited has been fixed for refined sugar at 0.5113×100—that is to say, 51.13 francs. Thus there is no export bounty, nor any direct bounty for the refiner. Even for wastes and powders the drawback is only 50.56 francs, which rather creates a condition of inferiority.

The yield of 88° is based upon the old method of analysis, under which ashes are deducted at the coefficient 5 from the absolute polarization. This method of analysis is less advantageous for the refiner than that followed in France and in the Netherlands. Indeed, it will suffice to glance at an analysis bulletin to be convinced that the coefficients 4 for the ashes and 2 for the uncrystallizable sugar, plus the lost fraction and the wastes of 1½ per cent, give, on the aggregate, a total abatement higher by 1 degree and more, than that which results from the application of the coefficient 5 without any other deduction.

SPAIN.

In Spain refined sugar manufactured with sugars or molasses from provinces and possessions beyond the sea, alone enjoys the refundment of the paid tax (33.50 francs per 100 kilos), with 20 per cent added by reason of waste and freight rates.

Since the law of 1892 has come into operation there has, as yet, been no occasion to effect this refundment.

FRANCE.

As explained in the notice previously handed to the conference in regard to the sugar legislation taken as a whole, the duties on raw sugar are computed in France according to the presumed yield in refining. This yield is ascertained, without any fraction of a degree, by means of analysis. An abatement equal to four times the weight of ashes and two times the weight of glucose is made on the polarimetric "titrage."

For instance, in the case of sugar polarizing 96.20 and containing 0.90 per cent of ashes, the yield is computed as follows:

Polarization	96.20
Abatement (0.90×4)	3.60
	92.60
Deduction for waste in refining ($1\frac{1}{2}$)	1.38
Presumed yield in refining upon which the duties are assessed	91.22

Now, one of two things must occur: either the abatement is in keeping with the influence of the salts[1] which produces molasses, and then the actual yield does not exceed the presumed yield, or the abatement is too large, in which case the actual yield would exceed the presumed yield and thus constitute an indirect bounty for refiners.

In order to protect the State against this last contingency, the French law subjects refineries to the "exercice."

The supervision is permanent. It is exercised exclusively when sugar is taken in and out of the factories. Refiners can only receive sugars that have previously been freed from the tax or temporarily admitted with a view to their exportation after refining. Secured by valid bonds, the obligations of temporary admission are liquidated either by evidence of exportation or, in default of exportation within a term of two months, by the payment of the duties.

The sole object of the "exercice" is thus to subject to the tax all surplus of yield.

As a matter of fact, the "exercice" had for its object to prevent the extraction of sugar from molasses, the only operation which was of such a nature as to produce such a surplus.

After keeping during several years an account of refining with an annual balance sheet, following upon a general stock taking, the French administration has given it up, because this stock taking, besides costing much labor, proved a hindrance to industrial operations. A much more simple and not less efficient system was substituted therefor by the law of July 26, 1893.

This system consists in keeping an account of the abatements, which

[1] There is no abatement made in regard to glucose, the cited example applying to beet sugar, which only contains traces of it.

shows: When taken in, the quantities of sugar corresponding to the abatement allowed on the polarimetric measurement; when taken out, the quantities of crystallizable sugar and of glucose contained both in the molasses and the "vergeoises," as well as the subproducts of refining.

The balance of this account is struck at the end of every half year. All the surplus is taxed.

THE NETHERLANDS.

The system relative to sugar refining in the Netherlands is very simple. The law of January 29, 1897, grants a production bounty, open and small, to all refined sugars produced in refineries.

As the refineries, as well as the beet-sugar making factories, are operated under the régime of the "exercice," there is no surplus.

In order to prevent fraud, raw sugar is weighed and analyzed by the customs officers, and the corresponding quantity in refined sugar is computed. The coefficients of abatements are 4 for ashes and 2 for glucose. Fractions of degree are overlooked, and a reduction of 1½ per cent for waste in refining is granted as regards common brown sugar.

From time to time, and as often as the customs inspector may demand, the stock of the factories is taken. If there are deficiencies, the refiner pays the excise duty forthwith. When there is a surplus, the amount is charged to the account.

In regard to deficiencies, the law grants allowances of 3 or 5 per cent.

The sugar when taken out of the refineries is: (1) Put into consumption; (2) exported; (3) sent to bonded warehouses.

In the first case only does the refiner pay the excise duty. A two months' credit is allowed him to effect the payment.

He receives the bounty for all refined sugars taken out of the factory. As the maximum total of bounties is determined by law the rate per 100 kilos varies. For a production of 147,000 tons of refined sugar, it would be for the present season 0.34 florin (Netherlands), but as a matter of fact it is less, because the production of refined sugar is larger than 147,000 tons.

The maximum of the bounty per 100 kilos, as well as the total maximum, decreases every year, so that in 1902–1903 the bounty per 100 kilos and the total of allowed bounty will represent about one-half of the present amount.

The excise duty is 27 florins per 100 kilos for refined sugar and 28.89 florins and 31.86 florins for the two classes of candied sugar.

There is no surtax.

RUSSIA.

The refiner is placed by the Russian law in a condition of actual inferiority as compared with the situation of refiners in other countries.

Refining in Russia is subject to a manufacturing tax of 5 rubles per 1,000 poods (= 1.38 cents per 100 pounds). The tax on sugar being collected at the time when the raw sugar is taken out of the factory, the refiner is allowed no credit by reason of the tax, and must reimburse the amount to the manufacturer upon buying the raw material. There is no system of bonded warehouse in Russia.

The law does not allow of an abatement on the yield. The Russian refiner has in consequence no surplus as have those of other countries,

and receives no rebate for waste in manufacturing. He pays the tax even upon the sugar destroyed in the course of refining.

In case of exportation the custom-house delivers certificates of export for the refundment of the tax only for such quantities of sugar as are actually exported, deducting wrapping paper and twine, from which the refiner stands a loss of from 2 to 4 per cent on the amount of tax paid.

The requirements of the Russian market demanding the manufacture of very hard sugar (boiled at a high temperature), the loss is in consequence more considerable than in the countries where "wastage" in refining is allowed.

All these conditions prevent Russia from exporting refined sugar to Europe, and she must confine herself to exporting to Persia and central Asia, her geographical position enabling her to offset in regard to exportation to those countries the disadvantages consequent upon Russian sugar legislation.

SWEDEN.

Inasmuch as in Sweden the tax on domestic sugar is solely placed on the weight of the beets there is no surveillance over refineries.

In case of exportation of domestic refined sugar there is no refundment of the tax paid on the raw sugar which has been used; consequently there is no export bounty.

There exists a drawback of 28.2 ore on refined sugars made from crude or raw foreign sugar, but as no sugar is imported for the purpose of being refined in Sweden this drawback has no consequence.

The exportation of sugar from Sweden is, under existing conditions, impossible.

O

OPINION OF THE CIRCUIT COURT.

(196) Filed 12 October, 1901.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

Robert E. Downs
vs.
The United States. } No. 350 Civil "B."

In the Matter of the Application of Robert E. Downs for a Review of the Decision of the Board of United States General Appraisers as to the rate and Amount of duty on Certain Imported Merchandise.

MORRIS, District Judge:

This is an appeal from the decision of the Board of United States General Appraisers in one of the "Russian Sugar Bounty cases," so called, arising from the application of the provisions of Section 5 of the Tariff Act of July 24, 1897.

Section 5 is as follows:

"SEC. 5. That whenever any country, dependency or colony shall pay or bestow, directly or indirectly, any bounty or grant, upon the exportation of any article or merchandise from such country, dependency, or colony, and such article or merchandise is dutiable under the provisions of this act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this act, an additional duty equal to (197) the net amount of such bounty or grant, however the same may be paid or bestowed. The net amount of all such bounties or grants shall be from time to time ascertained, determined and declared by the Secretary of the Treasury, who shall make all needful regulations for the identification of such articles and merchandise and for the assessment and collection of such additional duties."

Acting under this section, the Honorable, the Secretary of the Treasury of the United States, has ascertained

and declared that a trifle over seven-tenths of a cent per pound was bestowed by the laws of the Russian Government upon the exportation of the sugar in question and has directed that amount of additional duty to be assessed and collected on this importation of sugar.

The sole question for review is whether or not under the law of Russia as administered there was bestowed on the exportation of this sugar, directly or indirectly, any bounty or grant within the meaning of Section 5 of the Act of 1897. The law of Russia and its practical working is very fully set out in the carefully prepared statement and opinion of General Appraiser Somerville, concurred in by General Appraiser Fischer, and also in the dissenting opinion of General Appraiser Tichenor and in the printed documents which are a part of the record.

In the opinion of the majority of the Board of General Appraisers the working of the law of Russia results in a bounty upon exported sugar, and this was also the opinion of the majority of the delegates from England and the continental States who attended the international conference on the subject of sugar bounties held at Brussels in 1898.

The working of the Russian law is not easily stated and explained, although when fully stated, I think it is not difficult of comprehension

(198) Omitting from consideration many provisions which do not seem to affect the present question, the general scheme so far as it may be said to affect the exportation of sugar is to permit Russian sugar factories to sell in Russia an ascertained proporition of their output, estimated to be equal to about the normal demand for home consumption, upon paying an excise or internal revenue tax of about 2½ cents per pound, and as to the remainder of their output to forbid their selling it in Russia unless they pay about five cents per pound excise tax, that is to say, double the ordinary tax. This double tax is ordinarily probibitive of the sale of this surplus in Russia, and the manufacturer must either carry this surplus over to the next season and add it to his product for that season or it must be exported. But such is the profit realized on the limited amount allowed to be sold in Russia on payment of the ordinary excise tax that, in places remote from points of foreign shipment and where there is a good home market, manufacturers will pay nearly as much as the additional excise tax for the privilege of transferring their surplus sugar to the free sugar which they are allowed to sell at home. They will, in fact, pay so much for that privilege that manufacturers who are convenient to a point of foreign shipment and do

not have so good a home market are induced to export their free sugar which they might, if they chose, upon paying the ordinary excise tax, sell at home in order to obtain the bonus which the others are willing to pay. This arrangement is facilitated by the Government in the following way: No excise tax whatever is exacted upon exported sugar, and whenever a manufacturer exports sugar which is not surplus sugar, but what is called free sugar, that is, sugar which is part of the quantity set apart as saleable in (199) Russia, the Government issues to the exporter a certificate of that fact. This certificate can be assigned and entitles the holder of it to transfer the amount of sugar mentioned in it from his surplus sugar which he can only export or sell upon paying double tax to the free sugar which he is permitted to sell in Russia upon paying the single tax. This certificate issued by the Government to the exporter, he is able to sell at the rate, ordinarily, of about two cents per pound. It is from this transaction in which the Government issues to the exporter this certificate, which he can sell at the rate of about two cents per pound of sugar exported, that there is said to arise the bounty which it is claimed is bestowed by the Government of Russia upon the exportation of sugar.

It is also claimed that confirmation of this is afforded by the fact that Russian sugar is sold on arrival in New York at about a cent a pound less than it costs to manufacture in Russia.

In view of the inevitable appeal of this case, and of the importance of hastening its final decision, I shall not delay its decision in this court by taking the time necessary to a full consideration and a carefully stated written opinion. This is a test case involving but a small amount, but it is of great importance that the question be authoritatively and finally decided. It is not important in view of the certainty of appeal how it is decided in this court. I am free to say that the question appears to me a very close one and that I incline to the views expressed in the dissenting opinion of General Appraiser Tichenor. But on this appeal I take the carefully considered ruling of the majority of the Board of General Appraisers, as not to be set aside unless I am prepared to say that their decision is clearly wrong.

An order will be entered affirming the decision of the Board of General Appraisers.

DECREE.

(200) Filed October 12th, 1901.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

Robert E. Downs
vs.
The United States. } No. 350 Civil "B."

This cause coming on to be heard, and the parties thereto having been heard by their respective counsel, and the court being advised in the premises, and having considered the same, it is hereby adjudged, ordered and creed by the Circuit Court of the United States for the District of Maryland, this twelfth day of October, 1901, that the decision of the Board of United States General Appraisers in the above entitled case be, and the same is hereby affirmed, and it is further adjudged, ordered and decreed that Robert E. Downs shall pay the costs of this cause to be taxed by the clerk of this court.

THOS. J. MORRIS, Judge.

PETITION FOR APPEAL TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT AND ORDER ALLOWING SAME.

Filed October 16, 1901.

CIRCUIT COURT OF THE UNITED STATES, DISTRICT OF MARYLAND.

Robert E. Downs, Appellant.
vs.
The United States, Appellee. } No. 350 Civil "B."

TO THE UNITED STATES CIRCUIT COURT FOR THE DISTRICT
(201) OF MARYLAND.

The above named appellant, conceiving himself aggrieved by the decree herein, entered on the 12th day of October, 1901, hereby appeals from said decree and from each and every part thereof to the United States Circuit Court of Appeals for the Fourth Circuit for the reasons specified in the assignment of errors which is filed herewith, and the appellant respectfully prays that this appeal may be allowed and that a transcript of the record of proceedings and papers upon which said decree was made,

duly authenticated, may be sent to the United States Circuit Court of Appeals for the Fourth Circuit.

Dated Baltimore, October 15, 1901.

ERNEST A. BIGELOW,
Attorney for Appellant,
No. 35 Nassau Street,
New York City.

The foregoing appeal is hereby allowed, and the penalty of the bond fixed at one hundred dollars.

THOS. J. MORRIS, Judge.

October 16th, 1901.

ASSIGNMENT OF ERRORS.

(202) Filed October 16th, 1901.

UNITED STATES CIRCUIT COURT OF APPEAL FOR THE FOURTH CIRCUIT.

Robert E. Downs, Appellant,
vs.
The United States, Appellee. } No. 350 Civil "B."

ASSIGNMENT OF ERRORS OF APPEALS.

The plaintiff appellant hereby assigns error to the decision and judgment of the Circuit Court of the United States for the District of Maryland herein, in the following particulars:

I. In that the said court affirmed the decision of the Board of United States General Appraisers herein.

II. In that the said court held and decided that Russia is a country which pays or bestows a bounty or grant upon the exportation of sugar.

III. In that the said court held and decided that Russia paid or bestowed a bounty or grant upon the exportation of the sugar which is herein concerned.

IV. In that the said court held and decided that the remission of the excise tax upon the exportation of sugar was a bounty or grant upon exportation within the meaning of section five of the Tariff Act of July 24, 1897.

V. In that the said court held and decided that the certificate which the Government issued upon the exportation (203) of sugar operated as a premium, grant, bonus or reward.

VI. In that the said court held and decided that the alleged bounty or grant was borne by the public treasury of Russia.

VII. In that the said court held and decided that the countervailing duty of fifty one hundredths of a rouble per pood as assessed by the Collector of the Port of Baltimore upon the sugar in question was properly assessed under the provision of section five of the Tariff Act of July 24, 1897.

IX. In that the said court overruled the protest of the importer, the appellant herein.

X. In that the said court affirmed the decision of the collector.

XI. In that the said court did not reverse the decision of the Board of United States General Appraisers.

Wherefore, the plaintiff appellant respectfully prays that the decree of the Circuit Court, affirming the decision of the Board of United States General Appraisers, may be reversed and the protest of the plaintiff appellant sustained.

ERNEST A. BIGELOW,
On behalf of the Appellant.

APPEAL BOND.

(204) Filed October 17th, 1901.

Know all men by these presents, That we, Robert E. Downs, as principal, and Theodore A. Martin, as surety, are held and firmly bound unto the United States of America in the full and just sum of one hundred dollars, to be paid to the said United States of America or its certain attorney or assigns: to which payment, well and truly be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents. Sealed with our seales and dated this 17th day of October, in the year of our Lord, one thousand, nine hundred and one.

Whereas, lately at a Circuit Court of the United States for the District of Maryland, in a suit depending in said court between Robert E. Downs, Appellant, and the United States of America, Appellee, a decree was rendered against the said Robert E. Downs, and the said Robert E. Downs having obtained an appeal to reverse the decree in the aforesaid suit, and a citation directed to the said The United States of America, citing and admonishing the said The United States of America, to be and appear at a United States Circuit Court of Appeals for the Fourth Circuit, to be holden at Richmond on the day in the said citation mentioned.

Now the condition of the above obligation is such, that

if the said Robert E. Downs shall prosecute his said appeal to effect, and answer all damages and costs, if he fails to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

ROBT. E. DOWNS, [Seal.]
THEO. A. MARTIN, [Seal.]

Sealed and delivered in presence of

WILLIAM S. CHEW.

Approved by—

THOS. J. MORRIS, Judge.

CITATION.

(205) UNITED STATES OF AMERICA, } *ss.*

The President of The United States to The United States of America, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Fourth Circuit, to be holden at Richmond on the 15th day of November next, pursuant to an appeal from a decree of the Circuit Court of the United States for the District of Maryland, in your favor, passed in a cause in said court, wherein Robert E. Downs is Appellant and you are Appellee to show cause, if any there be, why the decree rendered against the said Robert E. Downs in said cause mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Thomas J. Morris, Judge of the said Circuit Court of the United States, this seventeenth day of October, in the year of our Lord one thousand, nine hundred and one.

THOS. J. MORRIS, Judge.

Service of the within citation acknowledged this 28th day of October, 1901.

JOHN C. ROSE,
U. S. Atty. by M. S. S.

STIPULATION AS TO RECORD.

(206) Filed October 30, 1901.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND

Robert E. Downs
vs
The United States.

It is hereby stipulated and agreed between the parties

to the above entitled case this 29th day of October, 1901, that the clerk of said Circuit Court in making up the record on appeal to the United States Circuit Court of Appeals for the Fourth Circuit shall insert therein only that part of the Congressional Record dated Feb. 26, 1901, which was returned to said court with the record of the board of U. S. General Appraisers (being one of the documents marked "Exhibit in suit No. 1491") which is contained in page 3335 (beginning with the 46th line of the second column of said page) and on pages 3336, 3337, 3338, 3339 and on page 3340 to the end of the 32nd line of the first column on said last mentioned page.

ERNEST A. BIGELOW,
Attorney for Robert E. Downs,
JOHN C. ROSE,
Attorney for the United States.

ORDER TO TRANSMIT RECORD.

(207) And thereupon it is ordered by the court here that a transcript of the record and proceedings of the cause aforesaid, together with all things thereunto relating, be transmitted to the said United States Circuit Court of Appeals for the Fourth Circuit, and the same is transmitted accordingly.

Test:

JAS. W. CHEW, Clerk.

CLERK'S CERTIFICATE.

UNITED STATES OF AMERICA, }
District of Maryland, } to wit:

I, James W. Chew, Clerk of the Circuit Court of the United States for the Fourth Circuit, in and for the District of Maryland, do hereby certify that the foregoing is a true transcript of the record and proceedings of the said Circuit Court, in the therein entitled cause, made up in accordance with stipulation of counsel.

{ Seal of the Court. } In testimony whereof I hereunto set my hand and affix the seal of said Circuit Court this 30th day of October, A. D., 1901.

JAS. W. CHEW,
Clerk of said Circuit Court.

PROCEEDINGS IN THE UNITED STATES CIRCUIT COURT OF APPEALS, FOR THE FOURTH CIRCUIT.

No. 430.

Robert E. Downs,	Appellant,	Appeal from the Circuit Court of the United States for the District of Maland.
vs.		
The United States,	Appellee.	

Nov. 1, 1901, transcript of record is filed and the cause is docketed.

Same day, appearance of Ernest A. Bigelow for the appellant and John C. Rose, U. S. attorney, for the appellee, orders filed.

Nov. 6, 1901, stipulation of counsel to docket and argue cause at November term, 1901, filed, to-wit:

STIPULATION OF COUNSEL.

Filed November 6, 1901.

Robert E. Downs,	Appellant,	No. 350. Civil " B.
vs.		
The United States,	Appellee.	

It is hereby stipulated and agreed by and between counsel for the respective parties hereto that the above entled cause may be docketed and placed upon the calendar for the November term of the United States Circuit Court of Appeals by the honorable clerk thereof, to be argued on any day of the said term named by the Honorable Court.

Dated at Baltimore, October 28, 1901.

JOHN C. ROSE,
United States Attorney and Counsel.

ERNEST A. BIGELOW,
Attorney for Appellant.

On another day, to-wit: Nov. 10, 1901, twenty copies of the printed record is filed.

And on another day, to-wit., Nov. 20, 1901 (November term, 1901), cause came on to be heard, and is argued by counsel and submitted.

And afterwards, on another day, to-wit., February 4, 1902 (February term, 1902), the court announced and filed its opinion, which is as follows, to-wit:

OPINION.

Filed February 4, 1902.

UNITED STATES CIRCUIT COURT OF APPEALS, FOURTH CIRCUIT.

No. 430.

Robert E. Downs, Appellant, vs. The United States, Appellee. } Appeal from the Circuit Court of the United States for the District of Maryland.

[Argued Nov. 20, 1901. Decided Feb. 4, 1902.]

Heard by GOFF and SIMONTON, Circuit Judges, and PURNELL, District Judge.

ERNEST A. BIGELOW for Appellant, JOHN C. ROSE, U. S. Attorney, for Appellee.

GOFF, Circuit Judge:

This is an appeal from a decree of the Circuit Court of the United States for the District of Maryland, entered in the matter of the petition of Robert E. Downs, concerning the decision of the Board of the United States General Appraisers, rendered April 19, 1901, as to the construction of the law and the facts respecting the classification of, and rate of duty imposed on certain Russian Sugar, imported by said Downs at the port of Baltimore, Maryland. The collector of that port acting under the provisions of section 5 of the tariff act of July 24, 1897, assessed and levied an additional or countervailing duty on said sugar, which was paid under protest by the importer, who, under the 14th section of the Act of Congress of June 10, 1890, had the action of the collector in so assessing such duty reviewed by the Board of United States General Appraisers. That board, after the questions involved had been carefully examined, affirmed the decision of the collector, and thereupon the importer, as he was authorized by law to do, asked the court below to review the matters of law and fact involved in said affirmance, which that court in due time did, and passed the decree affirming the decision of the Board of General Appraisers, now complained of.

We reach the conclusion that the collector of the port of Baltimore, under the provisions of the fifth section of the tariff act of July 25, 1897, properly imposed the duty now complained of by the appellant; we find that the Russian exporter of sugar obtains from his government a certificate, solely because of such exportation, which is worth

in the open markets of that country from one rouble and twenty-five copecks to one rouble and sixty-five copecks per pood, or from 1 8-10 to 2 35-100 cents per pound; therefore, we hold that the Government of Russia does secure to the exporter of that country, as the inevitable result of its action, a money reward or gratuity whenever he exports sugar from Russia, and we think it was from such indirect grants as this that the Congress of the United States intended to protect the manufacturers of this country, by authorizing the Secretary of the Treasury to make all proper regulations for the assessment and collection of such additional duties as were imposed by the collector on the sugars imported by the appellant.

The act of which said fifth section is a part was not only intended to aid in the collection of revenue, but also to encourage the industries of the United States, as is clearly stated in its title. One method of protection the Congress had in mind was the imposition of an additional duty on all articles of merchandise imported into the United States from any country which had paid or bestowed, directly or indirectly, any bounty or grant upon the exportation of such merchandise—the same being dutiable under that act—such additional duty to be simply the net amount of the bounty or grant which had been allowed for the purpose of facilitating the exportation.

In affirming the decree of the court below we also affirm the judgment rendered by the Board of General Appraisers, whose opinion so fully expresses our views, and so ably presents the facts involved herein and the law applicable thereto, that we deem it entirely appropriate to adopt the same as part of the opinion of this court. It is as follows:

"The importation in this case consists of refined sugar, which was exported from Russia, and arrived at the port of Baltimore as shown above. No controversy arises as to the proper classification of the sugar as made by the collector, his action in this particular not being challenged. The only question for decision relates to the imposition of a so-called countervailing duty, levied under the provisions of section 5 of the tariff act of July 24, 1897, which reads as follows:

"'Sec. 5. That whenever any country, dependency, or colony shall pay *or bestow*, directly *or indirectly*, any bounty *or grant* upon the exportation of any article or merchandise from such country, dependency, or colony, and such article or merchandise is dutiable under the provisions of this act, then upon the importation of any such

article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, *in addition* to the duties otherwise imposed by this act, an *additional duty* equal to the *net amount of such bounty or grant, however the same be paid or bestowed. The net amount* of all such bounties or grants shall be from time to time *ascertained, determined and declared by the Secretary of the Treasury*, who shall make all needful regulations for the identification of such articles and merchandise and for the assessment and collection of such additional duties.'

"Under the authority conferred by this law, the Secretary of the Treasury has duly 'ascertained, determined and declared the net amount' of the bounty or grant which, in his judgment, was bestowed by the laws of the Russian Government upon the exportation of this sugar. (T. D. 20407, dated December 12, 1898; T. D. 22814, dated February 14, 1901.) It is not denied by either party to this suit that, if in fact any bounty or grant was bestowed, the Secretary's finding as to its amount was correct. Moreover, it would seem that the decision of that officer as to this particular fact, being made in pursuance of a special statutory authority, would be quite as conclusive on this Board and the courts as the finding of the value of foreign coin by the Director of the Mint, under the provisions of section 25 of the tariff act of 1894, a statute strictly analogous, which finding has been held to be conclusive, and not reviewable by this Board or the courts. *United States* v. *Klingenberg*, (153 U. S., 93; 14 Sup. Ct. Rep., 790); *Wood* v. *United States*, (72 Fed. Rep., 254; 18 C. C. A., 553) explaining Klingenberg's case; *Hadden* v. *Merritt*, (115 U. S., 25).

"It is conceded, however, that the decision of the Secretary as to whether the laws of Russia do, in fact, bestow such a bounty or grant, is reviewable by this Board, as it involves the construction of the laws of Russia relating to the precise subject matter covered by said section 5, above cited. The jurisdiction of the Board in this particular has been sustained by the United States Circuit Court of Appeals for the Second Circuit in the recent case of *United States* v. *Hills Brothers Company* (suit 2827), decided February 8, 1901, (not yet reported). Alluding to this phase of the subject, Hon. Lyman J. Gage, Secretary of the Treasury, has made the following observation:

" 'Do the Russian Government regulations have such a bearing upon the facts of the case as to bring Russian sugar within the intent of said law as disclosed by its terms? While the question in its initiative lies with the administration of the Treasury Department, the question is of a judicial rather than of an administrative character, and its importance demands determination by a judicial tribunal. The Board of General Appraisers constitutes such a tribunal, and from its decisions appeal may be taken to the United States Courts.' (Cong. Record, 56th Cong., 2d sess., p. 3335. Speech of Hon. J. R. Mann, of Illinois.)

"The word 'bounty,' in its ordinary signification, may be defined to be 'an additional benefit conferred upon, or a compensation paid to, a class of persons.'—Bouvier's Law Dictionary (ed. of 1897), Vol. 1, page 260.

"The subject of sugar bounties has been a matter of consideration for the past thirty years or more, and has been discussed by various international conferences of the European powers, specially convened for the purpose of considering some suitable method for their suppression or modification, so far as relates to the continent of Europe and Great Britain and her colonies. A conference of this character was held at Brussels in June, 1898, the proceedings of which, under the denomination of 'sugar bounties,' have been published by authority of Congress as Senate Document No. 171, Fifty-sixth Congress, second session, under the direction of the Senate Committee on Finance. After an elaborate discussion and exchange of views between the delegates to this conference, the consensus of opinion among them seemed to be (p. 61) that—

" 'Bounties whose abolition is desirable are understood to be all the advantages conceded to manufacturers and refiners by the fiscal legislation of the States that, directly or indirectly, are borne by the public treasury.'

" It was furthermore stated that—

" 'There should be classified as such, notably: (*a*) The direct advantages granted in case of exportation; (*b*) the direct advantage granted to production; (*c*) the total or partial exemptions from taxation granted to a portion of the manufactured products; (*d*) the indirect advantages growing out of surplus or allowance in manufacturing effected beyond the legal estimates; (*e*) the profit that may be derived from excessive drawback.'

"It is important to observe, in the consideration of this subject, that section 5 of the tariff act of 1897, under

which this case arises, does not use the word 'bounty' in any narrow or technical meaning. It embraces 'any bounty or *grant*' bestowed or conferred by the Government, whether directly or indirectly. The word 'grant' is more comprehensive in meaning than the term 'bounty.' It implies the conferring by the sovereign power of some valuable privilege, franchise, or other right of like character, upon a corporation, person, or class of persons. Under the ancient laws of England this was deemed in many cases to be the prerogative of the King, who possessed large powers for the regulation of trade and commerce. It is stated, for example, by Macaulay, as follows:

"'In addition to his (King James I's) undoubted right to grant special commercial privileges to particular places, he long claimed a right to grant special commercial privileges to particular societies and to particular individuals.'

"And again:

"'He readily granted oppressive patents of monopoly.' (Macaulay's History of England, Vol. 4, pp. 222–3.)

"A well known instance of a similar grant was in the great 'Case of Monopolies' (Coke's Reports, part 11, p. 86), where a patent had been granted to the plaintiff, giving him the sole right to import playing cards and the entire traffic in them, and the sole right to make such cards within the realm. The court held that the grant to have the sole benefit of making them was 'against the common law and the benefit and liberty of the subject. (See comment in this case in *Slaughter house cases*, 16 Wall., 36, 103.) In more modern times, the grant of special privileges by the Louisiana Legislature to a particular class of persons, giving them a monopoly of establishing slaughter-houses in the City of New Orleans, is another illustration. The Supreme Court, per Miller, J., speaking of the act of the legislature, remarked:

"'It is true that it *grants*, for a period of twenty-five years, exclusive privileges.'

And again:

"'We think it may be safely affirmed that the Parliament of Great Britain * * * continued to *grant* to persons and corporations exclusive privileges—privileges denied to other citizens, etc.'

"See, also, Am. and Eng. Cyc. Law, Vol. 15, p. 711, 'Monopoly.'

"These cases are cited for the purpose of illustrating the broad and comprehensive meaning of 'grant,' which differs in many respects from 'bounty.' While it involves the idea of a favor or benefit conferred by the Government, sometimes of an exclusive character, it does not necessarily embrace the act of appropriating or paying money out of the public treasury.

"Indeed, the word 'grant,' in its broad signification, may well include the remission of a tax already levied and assessed by the authority of government. It has been held that, in the absence of special statutory remedies, and sometimes in addition to such remedies, actions of debt may be maintained for the collection of taxes. *Savings Bank* v. *United States* (19 Wall., 227, 240), citing numerous English cases; also *United States* v. *Lyman* (1 Mason, 482; 26 Fed. Cas., 1024), in which the question is exhaustively treated by Judge Story.

"There would seem to be no difference between the remission of a tax and the resulting cancellation of the debt due the Government, and a case where the tax may have been actually collected and paid into the treasury and then refunded and repaid by authority of law. A law enacted by the sovereign power, remitting the taxes due by a citizen for a single year or a specified number of years, in consideration of his rendering a service or engaging in an enterprise deemed of advantage to the public, would unquestionably be construed to be a 'bounty or grant,' as fully as if the like amount of money had been actually collected and refunded under the technical name of a bounty. It has long been the practice in many of the American States for the legislature to confer charters on banks, railroads, and especially on manufacturing corporations, containing a special grant of exemption from taxation under the general laws of the State. (*Chicago B. & K. C. R. R.* v. *Guffey*, 120 U. S., 569; *Given* v. *Wright*, 117 U. S., 656.)

"In this connection, the remarks of Chief Justice Fuller in *Passavant* v. *United States* (169 U. S., 16; 18 Sup. Ct. Rep., 219, at 22) are of importance:

"'Doubtless, to encourage exportation and the introduction of German goods into other markets, the German Government could remit or refund the tax, pay a bonus, or allow a drawback.

"'And it is found that, in respect of these goods, when "purchased in bond, or consigned while in bond, for exportation to a foreign country, this duty is remitted by the German Government, and is called *bonification of tax*, as

distinguished from being refunded as a rebate." The use of the word "bonification" does not change the character of this remission. It is a special advantage, extended by government in aid of manufacturers and trade, *having the same effect as a bonus* or drawback. To use one of the definitions of drawback, it is "a device resorted to for enabling a commodity affected by taxes to be exported and sold in the foreign market on the same terms as if it had not been taxed at all."

And again, (p. 223)—

" 'Exoneration from its payment (*i. e.*, payment of the tax) was a mere special advantage, extended by the German Government, as we have said, in promotion of manufactures and commerce.'

"The question, then, which is before us for consideration is reduced to this:

"Did the laws of Russia and the regulations made by the Minister of Finance for the purpose of carrying such laws into execution operate to confer a 'bounty or *grant*,' directly or indirectly, upon the exportation of this sugar from the Russian dominions? And in making this inquiry, it is immaterial in what manner the 'bounty or grant' was paid or bestowed. The law regards substances, not shadows; things, not names.

"The Russian law covering the production and exportation of sugar is an exceedingly complex scheme, both as it stands upon the statute book and as it is administered in actual practice. The system was pronounced by one of the delegates to the Brussels conference to be 'an extremely ingenious device,' and it was further said that—

" 'The Russian Empire is indebted to it for the notable increase in the output of sugar which has taken place since it came into operation; all this with the appearance that no premium, in the narrow meaning of the word, has been applied.'

"The leading features of the Russian law and regulations, as set forth in the stipulated agreement of facts and shown by the record, may be summarized as follows:

"Under the Russian law of November 20, 1895, sugar is divided into the three following classes (p. 2 of Stip., Sec. IV):

" '(*a*) "Free sugar," which consists of a certain quantity of sugar, which the Russian Government permits a factory or refinery to sell for home consumption under an excise tax of 1.75 rubles per pood.

"'(*b*) "An obligatory or indivertible reserve" of sugar, which consists of a certain quantity kept at each factory or refinery by order of the Government, and which may not be sold or removed without the special permission of the Government.

"'(*c*) "Free reserve or free surplus," which consists of such sugar as is manufactured over and above the quantity of "free sugar" and "obligatory or indivertible reserve." This sugar may not be sold for home consumption, except upon the payment of the regular tax of 1.75 rubles and an additional tax of 1.75 rubles, or 3.50 rubles in all."

"And the Russian Government fixes and determines the following conditions:

"'(*a*) The total quantity of sugar required for home consumption.

"'(*b*) The quantity of "free sugar" allowed to each factory, the "obligatory reserve" which each factory or refinery shall keep on hand.

"'(*c*) The maximum price at which sugar may be sold for domestic consumption.'

"It is admitted that the surgar imported in this case consists of 'free suger,' as above defined, and would have been subject to a tax of 1.75 rubles per pood, if sold in Russia (about 2½ cents per pound, allowing 36 pounds to the pood).

"With the view of protecting home producers of sugar against foreign competition, the Russian Government imposes an import duty on sugar of 3 roubles per pood, which is equivalent to about 4.28 cents per pound. Other important provisions of the Russian law are as follows:

"'10. The delivery of sugar from factories and beet sugar refineries is allowed only upon permits of the excise supervisor who certifies by his signature upon the transit document to the regularity of the delivery.'

"'5. Sugar in excess of the normal production cannot be put on the home market otherwise than upon payment of an additional tax, the normal tax being payable according to the general regulation; however, it is allowed to the manufacturers to keep this excess of sugar as free reserve, and in such case, so long as the sugar does not leave the factory, they are not required to pay either the additional or the regular excise.'

"An important provision enabling the Russian Government to control prices is found in section 7 of the law, which reads as follows:

"'7. In cases where the prices in the home market exceed the normal prices fixed the minister of finance authorizes the issuance of sugar from the obligatory reserve and from the free reserve (if necessary) in sufficient quantities to cause a decrease of prices without payment of the additional tax, but with payment of the normal excise.'

Section 9 runs as follows:

"'9. Upon the exportation from factories of the excess of sugar, the same is exemptedfrom excise and additional tax in full measure.'

"The Minister of Finance, acting in conjunction with a committee of ministers, is authorized either to reduce or to suspend totally, for a given period of time, the provision of the Russion law which exempts exported sugar from not only the normal tax but also the additional tax as well. Such action would operate to subject imported sugar to the full tax of 3.50 rubles per pood (equal to about 5 cents per pound).

"The particular bounty or grant which seems to be conferred by the Russian law upon the exportation of sugar accrues under section 39 of said law, providing that—

"'A manufacturer may cede to another manufacturer his right to place on the home market free—*i. e.*, without the payment of an additional tax—his allotted quota of sugar.'

"This cession can be made only in accordance with certain rules prescribed in Section 40 of said law, by which notice of such transfer is required to be given to the local excise board, authorizing the reduction of the quantity of free sugar in one mill and the increase thereof by assignment at another mill.

"This cession or transfer is accomplished by means of Government certificates or vouchers, which operate as follows, *e. g.*, refiner A is authorized to get the benefit of the failure of refiner B to supply the home market with his full quota of free sugar. Home refiner A becomes willing to pay refiner B a certain required sum if he will export a portion of his allotted quota of sugar, and he accordingly gives A the official evidence of such exportation in the form of a voucher or certificate, as above described; and this, under the operation of the Russian law and regulations, authorizes A to sell in the home market, at a tax of 1.75 rubles

per pood, an equivalent portion of the sugar produced by him, A, in excess of his quota. One of the purposes of these transfers is expressly stated to be 'in order to facilitate the exportation of the surplus to foreign countries.' (Secs. 39 and 40.)

"The character and value of these certificates are further explained in the following extracts from the stipulated agreement of facts in this case:

"'VI. That, upon the exportation of said sugar from Russia, the Russian Government, under its laws and regulations, released said sugar from said tax of 1.75 rubles, either by a refund of the tax, or a cancellation of indebtedness, or otherwise.

"'VII. That, in addition to remitting said excise tax, the Government issued to the exporter a certificate certifying that he had exported such a quantity of so-called free sugar. The said certificate and such certificates for free sugar have a substantial market value and are transferable, and that the price thereof is usually determined by the difference existing at the time between the price obtainable for the sugar on the home market and the price obtainable abroad.

"'VIII. That said certificates are sold to and used by sugar manufacturers or refiners, who are thereby enabled to transfer from their "free reserve or free surplus," to their "free sugar" an amount of sugar equal to the amount shown by said certificates to have been exported, which amount may then be sold for domestic consumption on paying the ordinary tax of 1.75 rubles per pood (to which free sugar is regularly subject).'

"The following statement on this subject is made in the report of the American Consul to the Treasury Department, and which was admitted in evidence at the hearing:

"'On shipment abroad of sugar which cannot be placed on the home market without the payment of additional excise, the latter—*i. e.*, the excise—is guaranteed by approved securities, and for this sugar a certificate is given to the effect that the same has been manufactured at such a factory in such a year and figures in the category of "free reserve," and is being sent abroad through such custom-house. When thereafter this sugar arrives at the custom-house and has been shipped abroad, the customs authorities make an indorsement on the certificate and also issue to the shipper quittances, which are accepted in lieu

of payment of the excise computed as being due on that sugar.

"'The manufacturer presents this certificate to the local excise administration, which sets the securities free which were deposited when the sugar was being removed from the factory. To avoid the necessity of giving securities as guarantee for additional excise, and in general for the greater freedom in business transactions, the manufacturer is granted the right to export abroad "free sugar"—*i. e.*, that on which no additional excise is payable. For such sugar, on its being taken from the factory, a certificate is given, on which is written "Free sugar."

"'When thereafter the sugar is exported abroad and an indorsement is made on the customs certificate, then on presentation of this certificate to the local excise inspection the latter transfers to the "free sugar" an equal quantity from the "free reserve." It is, of course, understood that on the exportation abroad of free sugar the customs authorities also issue quittances, which are valid in lieu of payment of excise on sugar.

"'It is permitted to export free sugar abroad, not only for the purpose of liberating for admission to the home market the "free reserve" of any one factory, but also of any other factory. For this purpose the owners of the factories who enter among themselves into such an agreement must notify their local excise officials, and these in turn must notify each other. That factory which desires to export abroad its free sugar, say 5,000 poods, for the account of another factory indicated by it, asks for the transfer in its factory and excise books of 5,000 poods from the category of "free sugar" to the category of "free reserve" in order that from the category of the "free reserve" of the other manufacturer 5,000 poods may also be transferred to the category of "free sugar."

"'The other manufacturer hands in a notice for the liberation of 5,000 poods of the free reserve from the additional excise and its transfer to the category of free sugar, in view of the fact that in its place 5,000 poods of the free sugar have been transferred to the free reserve of the first manufacturer. Consequently the first manufacturer ceded to the second his right of placing on the home market 5,000 poods, which he can now only sell abroad or pass out into the home market after payment over and above the excise of the additional excise of 1.75 rubles per pood. As the first and second methods of disposing of this sugar are less advantageous than placing the article on the home market as free sugar, the manufacturer who ceded his right receives from the manufacturer who acquired the right the price

per pood agreed upon between them, which is usually determined by the difference existing at the moment between the price obtainable for the sugar on the home market and the price obtainable by sale abroad.

"'This is what is termed a transfer. Dependent upon the fluctuations in price of sand sugar in Russia and abroad, the price of these transfers also varies; therefore, the person who sells the transfer (the right of issue into the home market) charges several kopecks more than the difference mentioned above. This is done on account of the risk that is taken that sugar prices abroad may fall, and also for the trouble involved in exporting, etc.

"'EXAMPLE.—Price of sand sugar at a station in the southwestern region, (*a*) for the home market, Rs. 4.25 per pood, or without excise, Rs. 2.50; (*b*) for abroad, Rs. 1.25. Consequently the difference or value of transfer is Rs. 1.25, but in that case, for the reasons given, Rs. 1.28 to Rs. 1.30 is paid for the transfer.

* * * * * * *

"'For example, four sugar factories far away from the shipping port have to export 50,000 poods each, or in all 200,000 poods. Another factory situated near a shipping port, to which the freight is cheaper, and with the demand for sugar not great, finds it more profitable to export its entire output (250,000 poods), and receives export certificates for this quantity. These certificates are given to the owners of the four factories mentioned, and these in turn deliver 200,000 poods of sugar, which can be sold on the home market whenever the owner pleases.

"'It should have been stated that certificates to the extent of 200,000 poods are exchanged for the same quantity of sugar, and not 250,000 poods. These certificates can be sold to a bank, or to a speculator who has engaged to deliver sugar at the port abroad to which the sugar was shipped. The Government also takes these certificates in payment of excise at par—*i. e.*, 1 ruble 75 kopecks a pood.'

"The natural result of the Russian laws governing the sugar industry is the accumulation of a large surplus of sugar, and the disposal of such surplus has proved a problem of no small difficulty. Much of it has necessarily gone abroad for export, even at a loss to the manufacturers.

"It is manifest from the foregoing considerations that the exporter of sugar from the Russian Empire, under the provisions of the Russian laws already mentioned, as en-

forced by the regulations of the Minister of Finance, receives a valuable bonus through the operation of such laws and regulations, and that this bonus accrues to him upon the exportation of his sugar. The export certificates or vouchers, to which we have referred, are only the legal evidence of this valuable privilege or grant conferred by the Government, without whose authority such transfers of sugar would be valueless and of no effect.

"Our conclusion, therefore, is that a bounty or grant, within the meaning of section 5 of our tariff act, has been paid or bestowed by the Russian Government upon the exportation of this sugar, so as to work a benefit or advantage to the Russian sugar exporter, as follows:

"First. Upon the exportation of the sugar, the Government remitted or refunded the excise tax due thereon, or otherwise canceled the indebtedness of the sugar manufacturer, so that he was enabled to place his product upon the market free from the burden of either the regular or additional exercise tax.

"Second. The certificate which the Government issued to him upon the exportation of his sugar had a substantial market value, and was transferable, and operated as a premium, grant, bonus, or reward.

"Looked at from the Russian standpoint, these advantages might, perhaps, be described as a bounty on production, but (in the language of the Circuit Court of Appeals in the *Hills Brothers* case, *supra*) '*from the standpoint of other countries*,' they become a bounty or grant on exportation. It will be observed, too, that in the *Hills* case it was the fact alone of the remission of the excise tax by the Dutch Government which brought into operation the bounty received by the sugar makers. In other words, it created it, for without such remission there would have been no bounty. It is immaterial, we may add, whether the price obtained for the exported sugar reaped a profit or inflicted a loss upon the manufacturer or producer. The simple inquiry is whether, at whatever price he may have sold it, he received a bounty or grant of pecuniary value, upon its exportation by reason of and through the operation of the system of laws of the Russian Empire designed for the regulation of the sugar industry, both for home consumption and exportation.

"There is nothing in the decision of the Circuit Court of Appeals in the case of *United States* v. *Hills Brothers Company*, *supra*, which, in our judgment, conflicts in any manner with the conclusions we have reached in this case.

On the contrary, the reasoning of the court is strongly confirmatory of the views we have expressed. That decision, it may be noted, reversed the decision of the Circuit Court holding that the bounty paid by Holland was a bounty on production (99 Fed. Rep., 425), and affirmed the decision of this Board which held it to be a bounty on exportation. (*In re Hills Brothers Company*, G. A. 4261.)

"In examining the mass of evidence introduced in this case, and in construing the Russian laws and regulations, we have borne carefully in mind the principle laid down by Mr. Justice Miller in *Henderson* vs. *The Mayor* (92 U. S. 259, 268), that—

"'In whatever language a statute may be framed, its purpose must be determined by its natural and reasonable effect.'

"Testing the Russian sugar laws by this standard, and giving to the importer the benefit of every reasonable doubt as to the construction of the law, we are impelled to the conclusion that the Russian sugar statutes and regulations operate to pay or bestow a bounty or grant, directly or indirectly, upon the exportation of sugar.

"The protest is overruled and the decision of the collector is affirmed."

The decree appealed from is

Affirmed.

And thereupon, afterwards, on another day, to-wit: Feb. 8, 1902 (at the same term), the court made and entered the following decree, which is as follows:

DECREE.

Filed February 8, 1902.

UNITED STATES CIRCUIT COURT OF APPEALS, FOURTH CIRCUIT.

No. 430.

Robert E. Downs, Appellant,
vs.
The United States, Appellee.
} Appeal from the Circuit Court of the United States for the District of Maryland.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Maryland, and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged and decreed by this court that the decree of the said Circuit Court in this cause be, and the same is hereby, affirmed.

NATHAN GOFF.

Feb. 8th, 1902.

And afterwards, on another day, to-wit: March 1, 1902, the mandate of this court issued and is transmitted to the Clerk of the Circuit Court of the United States for the District of Maryland, at Baltimore.

CLERK'S CERTIFICATE.

UNITED STATES OF AMERICA, Fourth Circuit, } ss:

I, Henry T. Meloney, Clerk of the United States Circuit Court of Appeals for the Fourth Circuit, do certify that the foregoing is a true copy of the entire record and proceedings in the therein entitled cause as the same remains upon the records and files of the said Circuit Court of Appeals.

{ Seal of the Court. }

In testimony whereof I hereto set my hand and affix the seal of the said United States Circuit Court of Appeals for the Fourth Circuit, at Richmond, this 23d of April, A. D. 1902.

HENRY T. MELONEY,

Clerk U. S. Circuit Court of Appeals, Fourth Circuit.

United States Circuit Court of Appeals, Fourth Circuit.

UNITED STATES OF AMERICA, *Fourth Circuit*, } *ss*:

I, Henry T. Meloney, clerk of the United States circuit court of appeals for the fourth circuit, do make return to the annexed writ of certiorari issued out of the Supreme Court of the United States in the cause therein entitled on the 21st day of May 1902, by annexing hereto a certified copy of the stipulation of the attorneys of record, that the certified transcript of the record of said cause filed in the clerk's office of the supreme court with the petition for the said writ of certiorari may be received and considered as the transcript of the record on the return to said writ of certiorari.

In testimony whereof I hereto set my hand and affix the seal of the said circuit court of appeals at Richmond, on this 29th day of May, A. D. 1902.

[Seal United States Circuit Court of Appeals, Fourth Circuit.]

HENRY T. MELONEY,
Clerk U. S. Circuit Court of Appeals, 4th C't.

C. M. D.

Supreme Court of the United States, October Term, 1901.

ROBERT E. DOWNS, Petitioner, *v.* UNITED STATES. } No. 666.

Stipulation.

It is hereby stipulated by the counsel for the parties to the above-entitled cause that the certified copy of the transcript of the record now on file in this court shall be taken as the return of the clerk of the circuit court of appeals for the fourth circuit to the writ of certiorari issued herein.

ERNEST A. BIGELOW,
Counsel for the Petitioner.
J. K. RICHARDS,
Solicitor General.

May 26, 1902.

I, Henry T. Meloney, clerk of the circuit court of appeals of the United States for the fourth circuit, do certify that the above is a true copy of the original stipulation of counsel filed and entered in the therein-entitled cause.

In testimony whereof I hereto set my hand and affix the seal of

the said circuit court of appeals, at Richmond, this 29th day of May, A. D. 1902.

[Seal United States Circuit Court of Appeals, Fourth Circuit.]

HENRY T. MELONEY,
Clerk U. S. Circuit Court of Appeals, 4th C't.

C. M. D.

UNITED STATES OF AMERICA, *ss:*

[Seal of the Supreme Court of the United States.]

The President of the United States of America to the honorable the judges of the United States circuit court of appeals for the fourth circuit, Greeting:

Being informed that there is now pending before you a suit in which Robert E. Downs is appellant and The United States is appellee which suit was removed into the said circuit court of appeals by virtue of an appeal from the circuit court of the United States for the district of Maryland, and we, being willing for certain reasons that the said cause and the record and proceedings therein should be certified by the said circuit court of appeals and removed into the Supreme Court of the United States, do hereby command you that you send without delay to the said Supreme Court, as aforesaid, the record and proceedings in said cause, so that the said Supreme Court may act thereon as of right and according to law ought to be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 21st day of May, in the year of our Lord one thousand nine hundred and two.

JAMES H. McKENNEY,
Clerk of the Supreme Court of the United States.

[Endorsed:] File No. 18,519. Supreme Court of the United States. No. 666, October term, 1901. Robert E. Downs *vs.* The United States. Writ of certiorari. The execution of the within writ appears from the schedules thereunto annexed. Henry T. Meloney, cl'k U. S. cir. court of appeals, 4th circuit.

[Endorsed:] File No. 18,519. Supreme Court U. S., October term, 1902. Term No. 318. Robert E. Downs, petitioner, *vs.* The United States. Writ of certiorari and return. Filed June 3rd, 1902.

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JAMES H. McKENNEY,
Clerk.

c No. 666. 318

Brf. of Bigelow for Petitioner.

Filed April 30, 1902.

In the Supreme Court of the United States.

OCTOBER TERM, 1901.

ROBERT E. DOWNS,
Petitioner,

vs.

THE UNITED STATES,
Respondent.

No. 666

PETITION OF ROBERT E. DOWNS, AND BRIEF THEREON, FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT.

ERNEST A. BIGELOW,
Attorney for Petitioner.

IN THE

Supreme Court of the United States,

OCTOBER TERM, 1901.

ROBERT E. DOWNS,
Petitioner,

vs.

THE UNITED STATES,
Respondent

No.

PETITION OF ROBERT E. DOWNS AND BRIEF THEREON, FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT.

The petitioner respectfully prays the Court to grant the writ herein, in order to review a decision of the United States Circuit Court of Appeals for the Fourth Circuit, upon grave and important questions as to the construction of Section five of the Tariff Act now in force and its application to imports of sugar manufactured in Russia,

The question which the Court is asked to determine is, Does the Russian Government pay or bestow, directly or indirectly, any bounty or grant upon the exportation of sugar, within the meaning and scope of Section five of the Tariff Act of July 24, 1897, imposing a countervailing duty equal to the amount of any bounty or grant so paid or bestowed ?

STATEMENT.

Section five of the Tariff Act of July 24, 1897, provides in part as follows; "That whenever any country, dependency, or colony shall pay or bestow, directly or indirectly, any bounty or grant upon the exportation of any article or merchandise from such country, dependency or colony, and such article or merchandise is dutiable under the provisions of this act, then upon the importation of any such article or merchandise into the United States * * * * * * there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The net amount of all such bounties or grants shall be from time to time ascertained, determined and declared by the Secretary of the Treasury, who shall make all needful regulations for the identification of such articles and merchandise and for the assessment and collection of such additional duties."

In 1898 the Secretary of the Treasury decided that a certain transaction between citizens, sanctioned by the Russian law, constituted the payment of a bounty, and on December 12th (T. D. 20407), he proclaimed the net amount thereof in accordance with the provisions of Section five above. Subsequently, on April 20, 1900 (Circular No. 50), pending certain treaty negotiations with Russia, this order was suspended; but the suspension was revoked February 14, 1901 (Circular No. 110).

The Russian Government protested that no bounty was paid on the export of Russian sugar and that the imposition of the countervailing duty was a discrimination against Russian commerce in violation of treaty rights. On this ground the Russian Minister of Finance, two weeks after the revocation of the suspension of the order imposing the countervailing duty, withdrew from American imports into Russia the privilege of the conventional tariff of that country to which the United States was entitled under the "most favored nation" clause of the treaty with Russia of 1832, and imposed thereon the maximum tariff, thereby destroying the larger part of our rapidly growing export trade with Russia, amounting to millions of dollars annually, and rendering the question in this case of prime importance to American manufacturers.

Prior to the suspension of the order this petitioner imported certain Russian sugars, upon which the Collector of the port of Baltimore imposed an additional or countervailing duty equal to the amount of the alleged bounty as proclaimed by the Secretary of the Treasury. The petitioner paid this duty under protest, and appealed to the Board of United States General Appraisers (by authority of Section 14, Administrative Customs Act, June 10, 1890), alleging that the Russian Government did not pay or bestow a bounty or grant on the exportation of this sugar, within the meaning of Section Five of the Tariff Act of 1897.

The Board of Classification of the United States General Appraisers overruled the protest, two of the three members deciding that "A bounty or grant "within the meaning of Section five of our Tariff Act "has been paid upon the exportation of this sugar, so

" as to work a benefit or advantage to the Russian " sugar exporter, as follows:

" FIRST.—Upon the exportation of the sugar, " the Government remitted or refunded the ex- " cise tax thereon, or otherwise canceled the " indebtedness of the sugar manufacturer, so that " he was enabled to place his product upon the " market free from the burden of either the reg- " ular or additional excise tax; and

" SECOND.—The certificate which the Govern- " ment issued to him upon the exportation of his " sugar had a substantial market value, and was " transferable, and operated as a premium, grant, " bonus or reward."

The third member of the Board dissented on the grounds:

" FIRST.—That the remission, on exportation of " sugar, of the excise tax, does not constitute a " bounty or grant upon the exportation."

" SECOND.—That a bounty or grant need not be " money, but may consist of a valuable right, *con-* " *ditioned, however, upon exportation*, in order to be " within the purview of Section Five, Act of " July 24, 1897."

" THIRD.—That Russia does apparently confer " a valuable right or privilege in her domestic " markets upon her manufacturers of sugar, *but* " *this right is not conditional upon exportation.*

" FOURTH.—The question being in doubt, the " doubt should be resolved in favor of the im- " porter."

On appeal to the United States Circuit Court for the District of Maryland, Judge Morris affirmed the decision of the majority of the Board, but expressly on the ground that to do otherwise would require a carefully considered written opinion, and that delay would prevent this important case from being heard at the November Term of the Circuit Court of Appeals. The learned Judge then goes on to say: " I

"am free to say that the question appears to me a "very close one, and that I incline to the views ex- "pressed in the dissenting opinion of General Ap- "praiser Tichenor."

The Circuit Court of Appeals affirmed the decision of the courts below, the Court saying: "We find "that the Russian exporter of sugar obtains from his "Government a certificate, solely because of such ex- "portation, which is worth in the open markets of "that country from R. 1.25 to R. 1.65 per pood, or "from $1\frac{8}{10}$ to $2\frac{35}{100}$ cents per pound; therefore we "hold that the Government of Russia does secure to "the exporter of that country, as the inevitable "result of its action, a money reward or gratuity "whenever he exports sugar from Russia." The learned Court further says: "In affirming the decree "of the Court below we also affirm the judgment "rendered by the Board of General Appraisers, "whose opinion so fully expresses our views and so "ably presents the facts involved herein and the law "applicable thereto, that we deem it entirely appro- "priate to adopt the same as part of the opinion of "this Court."

The grounds of the decision of the Circuit Court of Appeals, therefore, are two-fold:

FIRST.—That the remission of the excise tax, upon the exportation of the sugar, was a bounty or grant within the scope of Section five.

SECOND.—That the issuance to the exporter of a certificate which had a substantial market value operated as a bounty or grant upon exportation.

IT IS RESPECTFULLY SUBMITTED THAT THE CIRCUIT COURT OF APPEALS ERRED IN BOTH THESE CONCLUSIONS.

ARGUMENT

As to the First Proposition of the Circuit Court of Appeals.

I.

To include the remission of excise taxes, *i. e.*, drawbacks, within the scope of bounties or grants as the terms are used in Section five, would be to attribute to Congress an intention to condemn as bounty-paying an important integral part of the revenue system of the United States. Since 1794 the United States has had a system of drawbacks which has been so elaborated that annually millions of dollars in internal revenue taxes and customs dues are refunded to exporters.

Section 15 of this very Act of July 24, 1897, provides "that all articles manufactured in whole or in "part of imported materials, or of materials subject "to internal revenue tax and intended for exporta- "tion without being charged with duty and without "having an internal revenue stamp affixed thereto "shall be manufactured in bonded warehouses and "when exported directly therefrom shall be exempt "from duty and from the requirements relating to "revenue stamps."

Section 30 of the same act provides that "when "imported materials on which duties have been paid "are used in the manufacture of articles manufactured "or produced in the United States, there shall be "allowed on the exportation of such articles a draw- "back equal in amount to the duties paid on the ma- "terials used, less one per centum of such duties."

Section 3329 of the Revised Statutes provides that "Distilled spirits upon which all taxes have been paid, "may be exported, with the privilege of drawback."

If the learned Court below was right in spelling out a bounty from the fact that "upon the exportation of "the sugar the Government remitted or otherwise "canceled the indebtedness of the sugar manufac- "turer, so that he was enabled to place his product "upon the market free from the burden of either the "regular or additional excise tax," then the United States Government pays a bounty upon the exportation of distilled spirits and of "all articles manufac- "tured in whole or in part of imported materials, or "of materials subject to internal revenue tax," for the manufacturer thereof is equally with the Russian sugar manufacturer "enabled to place his product "upon the market free from the burden of the excise "tax."

Congress could not have intended the words "bounty or grant" as used in Section five to have any such comprehensive scope.

II.

The bounties contemplated by Congress were such artificial aids as tend to lower the natural cost of foreign production, thereby neutralizing the effect of the protective duties estimated with reference to that natural cost.

A drawback does not tend to lower the natural cost of production. To quote an old authority: "A "drawback is a device resorted to for enabling a "commodity affected by taxes to be exported and "sold in the foreign market on the same terms as if "it had not been taxed at all. It differs in this from "a bounty, that the latter enables a commodity to "be sold abroad for less than its natural cost; "whereas, a drawback enables it to be sold exactly "at its natural cost. Drawbacks do not occasion

" the exportation of a greater quantity of goods than " would have been exported had no duty been im- " posed." Cited in part by Mr. Chief Justice Fuller, in the Passavant Case (169 U. S., at 23).

III.

To maintain that a drawback is a bounty is equivalent to saying that an omission to tax is a bounty. The fact that exported goods are free from tax does not make them bounty-fed *as regards the foreign market.*

AS TO THE SECOND PROPOSITION OF THE CIRCUIT COURT OF APPEALS.

The second ground upon which the Circuit Court of Appeals rested its decision is that the Russian exporter obtains from his government, solely because of such exportation, a certificate which has a substantial market value; and the Court holds "that the " Government of Russia does secure to the exporter " of that country, as the inevitable result of its action, " a money reward or gratuity whenever he exports " sugar from Russia."

It is submitted respectfully and with the utmost deference that the opinion of the learned Court states only half the truth. It is true that the exporter, as stated by the Court, " receives a money reward or " gratuity whenever he exports sugar from Russia." It is equally true, however, that he receives the same money reward or gratuity when he does *not* export his sugar, but sells it on the home market. In other words the " money reward or gratuity," if it be a bounty at all, is not conditioned on exportation, and hence is not within the purview of Section five.

I.

The Russian Sugar Law.

The Russian Sugar Law is the result of the Government's determination to take the control of the trade out of the hands of the Sugar Ring. The outlines of the system are briefly as follows: (1) To insure revenue to the Government all sugar produced is subject to a tax of R. 1.75 per pood; (2) to insure a fair price to the consumer a maximum price is fixed by the Ministry, a large "indivestible reserve" of sugar being kept on hand to be thrown on the market if the maximum be exceeded; (3) to insure a fair price to the manufacturer a high customs duty is imposed on foreign sugar; (4) to protect all concerned from the evils of overproduction a complicated system is enforced, the provisions of which have caused most of the confusion of mind on this subject.

To prevent overproduction the Government *penalizes* all sugar over and above the amount estimated to be required for consumption. That is to say, the sugar estimated to be required for consumption ("Free sugar") is subject to the normal excise tax; the surplus sugar above that estimated amount ("surplus," "free surplus" or "free reserve") is not allowed to be sold in the home market except upon payment of a double excise tax.

To give effect to this plan, the Ministry estimate the total national production and the total consumption, and the product of each factory, whether at the profitable Moscow market far inland, or at a lit-

tle seaport town, is divided into "free" and "surplus" sugar according to this estimate. Thus, if the Ministry estimate the total consumption at 35 million poods and total production at 50 millions, $\frac{35}{50}$ of each individual's production will be "free sugar" and $\frac{15}{50}$ (less a certain portion set aside as "indivertible reserve") will be "surplus sugar" (Law, § 3 *et seq.*, Rec., p. 41; Consul's Report, Rec., p. 60).

It is this impartial distribution of "free sugar" between those who have a good market, but far inland, and those who have only a fair market, but near a seaport, which occasions the traffic in export certificates.

For example, a manufacturer located at Moscow or other great inland city where the demand for sugar ensures maximum price, has, say, 350,000 poods of "free sugar" and 150,000 poods of "surplus." He can carry this "surplus" over to the production account of the following year (Reg., § 19, Rec., p. 50), or he can export it, but in the latter event he must pay freight to the coast. As the home market is highly profitable, his endeavor is to convert his "surplus sugar" into "free sugar" which he can sell at the normal tax. On the other hand, another factory situated near a shipping port, to which the freight is cheaper and with the demand not great, finds it more profitable to export its entire output, "free" as well as "surplus" (Rec., p. 17).

Inasmuch as the total "free sugar" for the home market is definitely fixed at the amount estimated for consumption (Rec., p. 8), the "free sugar" quota of the Moscow manufacturer can be increased only at the expense of the quota of some one else, *e. g.*, the seaport manufacturer, and the incentive to the mutual transaction is precisely this fact, that he at Moscow

can sell to greater and export to less advantage than he at the seaport.

There are two ways by which the Moscow manufacturer can increase his quota of "free sugar" at the expense of the seaport merchant.

a. The first method is by direct transfer. Section 39 of the regulations (Rec., p. 57) allows one manufacturer to cede to another his right to place on the home market free, *i. e.*, without the payment of the additional tax, his allotted quota of "free sugar." Section 40 prescribes the method whereby the free sugar quota of the transferee is increased as the quota of the transferror is diminished in the books of the respective mills. *Note that here is no export by either party, nor actual transfer.* The sole change appears on the books of the mills, where one man's product has become all "free sugar," and the other man's product, to the same amount, has become "surplus sugar," which he can only place on the market by paying the additional tax, or carry over to the next season, or export. The consideration for the transfer is best stated in the words of the American Consul (Rec., p. 17): "As the first and second "methods of disposing of his sugar (by paying "double tax or exporting) are less advantageous "than placing the article on the home market as free sugar, the manufacturer who ceded the right receives from the manufacturer who acquired the "right the price per pood agreed upon between "them, which is usually determined by the difference "existing at the moment between the price obtain-"able for the sugar on the home market and the "price obtainable by sale abroad."

b. The second method is by the purchase of an

export certificate certifying to the export of a certain quantity of "free sugar."

When "surplus" sugar goes from the mill for export, security must be given for the payment of the additional excise tax, and this security is not released until the return of the Custom House certificate of export (Rec., p. 55).

To avoid giving this security and in general for the greater freedom in business transactions, the manufacturer is granted the right to export "free sugar" in lieu of "surplus sugar," and upon the return of the "free sugar" export certificate the local excise inspector transfers to "free sugar" account an equal quantity of "surplus" (Rec., pp. 16, 55). The result is the same as though the manufacturer had exported "surplus sugar" and left his "free sugar" undisturbed; but he has benefited by not having to tie up a large amount of securities pending the return of the Custom House certificate.

It being immaterial to the Government how the manufacturers redistribute the "free sugar" among themselves, the "free sugar" certificate of export is made transferable, *and any holder thereof is enabled to have transferred from his "surplus" to his "free" account an amount of sugar equal to the "free sugar" shown thereby to have been exported* (Stipulation No. 8, Rec., p. 10).

As in the case of the direct transfer, it is the Moscow manufacturer who purchases these export certificates from the seaport merchant who has found it "more profitable to export his entire output" (Rec., p. 17). The right acquired being the same in both cases, viz., to enlarge, at the expense of another, the right of issue into the profitable home market, it is logical that the consideration for the direct transfer and the

export certificate should be the same, viz., the difference existing at the time between the price obtainable for the sugar in the home market and the price obtainable abroad (Stipulation No. 7, Rec., p. 9).

To recapitulate: The right of issue into the home market is a valuable right, because large profits therein are ensured by the operation of a high protective tariff. This right is limited to a portion of the product, estimated to equal the total consumption in the Empire, and all manufacturers participate equally therein. Trade conditions and geographical situation render this right more valuable to some than to others; accordingly, the Government allows one manufacturer to increase his proper share by private negotiations with other manufacturers. He may either arrange a direct transfer whereby his share of the right is increased by as much as his assignor's right is diminished; or he may purchase the export certificate of some merchant who has found it more profitable to forego this right and export his product. In both cases the purchase price is the same, viz.: the difference existing at the moment between the domestic market price and the foreign price, *i. e.*, an amount equivalent to the prospective profits on the home market, as modified by the freight which the purchaser would have to pay to send his product to the seaport.

It is the purchase price paid for the export certificate which the Circuit Court of Appeals held in the present case to constitute a bounty or grant on exportation.

II.

MORE PARTICULARLY AS TO THE NATURE OF THE EXPORT CERTIFICATE.

The value of the certificate lies not in the fact of exportation, *per se*, but in the fact that the exporter has thereby foregone his right to share in the profits on the home market, and the purchaser acquires the right. The total "free sugar" of the empire has been depleted by the export and the holder of the certificate has the right to make good the depletion, increasing thereby his quota of "free sugar," which he can sell to great advantage on the profitable home market. Total exports have not been increased, nor total sales on the home market. The only change is that the rights already shared by the two manufacturers have been redistributed in new proportions.

If the export of a certain amount of sugar was the foundation of the value of the certificate, then the export of "surplus sugar" should give value to a certificate thereof. Such, however, is not the case. A certificate certifying to the export of "surplus sugar" has no value at all, except as a voucher for the return of the additional tax remitted on export. As the American Consul says (Rec., p. 16): "The "manufacturer presents this certificate to the local "excise administration, which sets the securities free "which were deposited when the sugar was removed "from the factory." This is its only value, the reason being, of course, that the export of "surplus sugar" does not deplete the total "free sugar" in the Empire, and hence the holder of the certificate thereof

has no right to increase his allowance of "free sugar."

Again, if export be the foundation of the value of the certificate, why should direct transfers, involving no export at all, have precisely the same value, viz., the equivalent of the profits which the holder will reap by selling that amount of "free sugar" on the profitable home market?

III.

THE PURCHASE PRICE OF THE EXPORT CERTIFICATE IS NOT A BOUNTY OR GRANT "ON EXPORTATION."

It is the fact, and it is so stipulated in this case (Stip. No. 7, Rec., p. 9), that the price of the certificate "is usually determined by the difference existing at the time between the price obtainable for "the sugar in the home market and the price obtainable abroad."

Thus, if a manufacturer sells his free sugar at home he receives the home market price, which is a large one, owing to the high tariff; if he exports his free sugar to a foreign market he obtains the foreign price plus the sum derived from the sale of his export certificate.

As the price of the export certificate is the difference between the price obtainable at home and the price obtainable abroad, it is obvious that the manufacturer *receives the same gross amount* for his "free sugar" whether he exports or does not export.

In other words, the price of the export certificate is a substitute for, and equivalent to, the large profits on the protected and highly profitable home market which the manufacturer, by selling his "free sugar"

in the less profitable foreign market, foregoes in favor of another. Had he sold his "free sugar" in the home market, he would have received the large home market price; by exporting he transfers to another the right to receive that price and the purchase price of his export certificate, plus the price he receives for his sugar in the foreign market, exactly compensates him therefor.

How, then, can that be called a bounty on exportation which does not depend on exportation, and which is received by the manufacturer, whether he exports or does not export.

It is true that the export certificate, *qua* certificate, is conditioned an exportation; but the bounty must be sought, not in the certificate itself, but in the value received therefor. As shown above, the value received by the exporter is no greater and no less than he would have received, though in a different form, had he not exported at all but sold in the home market.

To state the proposition in another way, this right of issue into the home market, which is represented by the export certificate, was vested in the original owner regardless of any export, *for the Russian law does not require the exportation of any portion of the product as a condition of selling the balance in the home market.* As the original right to participate in the home profits was not conditional on exportation and hence not a "bounty on exportation," it follows that the purchase price of the right, the equivalent thereof, cannot be deemed a bounty on export. Mere transfer of the right cannot convert that into a bounty on export which was not one before.

IV.

THE BOUNTY OR GRANT MUST BE CONDITIONED ON EXPORTATION TO BE WITHIN THE SCOPE OF SECTION FIVE.

It is not enough that the bounty is on production and hence incidentally on exportation. The bounty must be solely on exportation and conditioned thereon in such fashion that the exporter gets it and the non-exporter does not.

The section is explicit: "any bounty or grant *upon the exportation.*" The prototype of this section was Section 182½ of the Tariff Act of 1894, which was equally explicit that an additional duty should be levied on all sugars imported from any country "which *at the time the same are exported therefrom* "pays directly or indirectly a bounty *on the export* "thereof."

Expressio unius exclusio alterius est.

V.

THE PURCHASE PRICE OF THE EXPORT CERTIFICATE WOULD NOT COME WITHIN THE PURVIEW OF SECTION FIVE EVEN IF THE SECTION WERE NOT LIMITED TO BOUNTIES CONDITIONED ON EXPORTATION.

The certificate represents the right of issue into the home market, and this right is valuable only because of the large profits to be reaped therein. If the purchase price of the certificate be a bounty, so also must be the profits of which it is the equivalent. These profits, however, are due to the operation of the high protective tariff, enhanced by the further

limitation of the market to a portion of the product. In its final analysis the Russian system is only an extension of the American protective tariff system.

There is an exact analogy, for instance, between the position of Russian sugar manufacturers and that of American distillers. Both are ensured a profitable home market by the tariff; both are subject to heavy excise taxes which are remitted on export; and as, to quote a famous authority, "the tariff is the mother of trusts," a combination of manufacturers secures by agreement in the United States that further limitation of the supply for home consumption which in Russia is provided for by law. If the profits of the American distiller do not constitute a bounty, then no more do the profits of the Russian sugar manufacturer.

The learned counsel for the Government will undoubtedly claim that the analogy between Russian sugar and American distilled spirits is defective in that there is no statutory restriction placed upon the amount of spirits which may be placed upon the American market. In reply to this contention it is submitted that there is no distinction in principle between limiting a market to home producers by a protective duty, and further limiting that market to a certain portion of the product by statute. The limitation enhances the price of the article in both instances and the Russian system differs from the American only in degree, not in principle.

We may admit, with Alexander Hamilton, that "duties of this nature evidently amount to a virtual "bounty on the domestic fabric, since by enhancing "the charges on foreign articles, they enable the "national manufacturers to undersell their foreign "competitors." We may acquiesce in the finding

of the famous Brussels Sugar conference, just adjourned, that a high protective duty (surtax) is an indirect bounty.

The question here, however, is not whether protective tariffs are indirect bounties, but whether Congress *intended to include them within the scope of Section five.*

It will hardly be claimed that Congress intended to condemn as bounty-paying in one section of an Act the very system established with such infinite detail by the rest of the same Act.

An examination of the wording of the section moreover, excludes such a theory. The section does not mention indirect bounties; it applies only when a country shall "*pay or bestow directly or indirectly* a bounty." There is a vast difference between paying an *indirect* bounty and *indirectly paying* a bounty. A protective tariff is an *indirect bounty.* The indirect *payment* of a bounty is illustrated by the Netherlands sugar law, whereby all producers are credited with a direct bounty and then charged with a larger excise tax which is remitted on export, the result being that only those who export get any bounty. Such a system was held to come within the prohibition of Section five in the Hills Bros. case (107 Fed., 107).

CONCLUSION.

The question in this case is of vast importance to American manufacturers. If the Circuit Court of Appeals is in error in deciding that Russia pays a bounty on the exportation of sugar, the countervailing duty must be taken off, and this will re-establish with Russia the friendly trade relations which formerly obtained.

The decision of the Circuit Court of Appeals that drawbacks are bounties within the meaning of Section five vitally affects the revenue system of the United States and concerns also the trade relations of the United States with foreign countries, and this not only as regards sugar, but also all products which are subject to internal revenue tax, for practically all countries remit such taxes upon exportation.

The Circuit Court of Appeals has in effect decided that the profits secured to domestic manufacturers by the operation of a protective tariff constitute bounties or grants on exportation within the scope of Section five. Under such a ruling most American products are bounty-fed.

There being a similar case pending in the Circuit Court for the Second Circuit, a review of this case by the Supreme Court will ensure uniformity of decision.

Wherefore, your petitioner prays that a writ of *certiorari* may issue herein to the Circuit Court of Appeals for the Fourth Circuit, directing that this cause be certified to this the Supreme Court of the United States for its review and determination.

Dated April 18, 1902.

ERNEST A. BIGELOW,
Attorney for Petitioner.

[G5388]

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JAMES H. McKENNEY,
Clerk.

No. 318.

Brf. of Bigelow for Petitioner.

THE RUSSIAN SUGAR BOUNTY CASE.

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BRIEF ON BEHALF OF PETITIONER.

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THE UNITED STATES.

BRIEF ON BEHALF OF PETITIONER IN SUPPORT OF CONTENTION THAT NO BOUNTY OR GRANT WAS PAID OR BESTOWED BY THE RUSSIAN GOVERNMENT UPON THE EXPORTATION OF A CERTAIN CONSIGNMENT OF SUGAR, WITHIN THE MEANING AND SCOPE OF SECTION FIVE OF THE TARIFF ACT OF JULY 24, 1897.

STATEMENT OF THE CASE.

The question which the Court is asked to determine is: Does the Russian Government pay or bestow, directly or indirectly, any bounty or grant upon the exportation of sugar, within the meaning and scope of Section 5 of the

tariff act of July 24, 1897, imposing a countervailing duty equal to the amount of any bounty or grant so paid or bestowed?

Section 5 provides:

"That whenever any country, dependency or colony "shall pay or bestow, directly or indirectly, any bounty "or grant upon the exportation of any article or mer- "chandise from such country, dependency or colony, and "such article or merchandise is dutiable under the pro- "visions of this Act, then upon the importation of any "such article or merchandise into the United States, "whether the same shall be imported directly from the "country of production or otherwise, and whether such "article or merchandise is imported in the same condition "as when exported from the country of production or has "been changed in condition by remanufacture or other- "wise, there shall be levied and paid, in all such cases, in "addition to the duties otherwise imposed by this Act, an "additional duty equal to the net amount of such bounty "or grant, however the same be paid or bestowed. The "net amount of all such bounties or grants shall be from "time to time ascertained, determined and declared by "the Secretary of the Treasury, who shall make all need- "ful regulations for the identification of such articles and "merchandise and for the assessment and collection of "such additional duties."

In 1898 the Secretary of the Treasury decided that a certain transaction between citizens, sanctioned by the Russian law, constituted the payment of a bounty, and on December 12th (T. D., 20,407), he proclaimed the net amount thereof in accordance with the provisions of Section 5 above. Subsequently, on April 20, 1900 (Circular No. 50), pending certain treaty negotiations with Russia, this order was suspended; but the suspension was revoked February 14, 1901 (Circular No. 110).

Prior to the suspension of the order this petitioner imported certain Russian sugars, upon which the Collector

of the port of Baltimore imposed an additional or countervailing duty equal to the amount of the alleged bounty as proclaimed by the Secretary of the Treasury. The petitioner paid this duty under protest, and appealed to the Board of United States General Appraisers (by authority of Section 14, Administrative Customs Act, June 10, 1890), alleging that the Russian Government did not pay or bestow a bounty or grant on the exportation of this sugar, within the meaning of Section 5 of the Act.

The Board of Classification of the United States General Appraisers overruled the protest, two of the three members deciding that "A bounty or grant within the "meaning of Section Five of our Tariff Act has been paid "upon the exportation of this sugar, so as to work a "benefit or advantage to the Russian sugar exporter, as "follows:

> "FIRST.—Upon the exportation of the sugar, the "Government remitted or refunded the excise tax "thereon, or otherwise canceled the indebtedness "of the sugar manufacturer, so that he was enabled "to place his product upon the market free from "the burden of either the regular or additional ex-"cise tax; and
>
> "SECOND.—The certificate which the Government "issued to him upon the exportation of his sugar "had a substantial market value, and was trans-"ferable, and operated as a premium, grant, bonus "or reward."

The third member of the Board dissented on the grounds:

> "FIRST.—That the remission, on exportation of "sugar, of the excise tax, does not constitute a "bounty or grant upon the exportation."

"SECOND.—That a bounty or grant need not be "money, but may consist of a valuable right, *con-* "*ditioned, however, upon exportation*, in order to "be within the purview of Section Five, Act of "July 24, 1897."

"THIRD.—That Russia does apparently confer a "valuable right or privilege in her domestic mar- "kets upon her manufacturers of sugar, *but this* "*right is not conditional upon exportation.*"

On appeal to the United States Circuit Court for the District of Maryland, Judge Morris affirmed the decision of the majority of the Board, but expressly on the ground that to do otherwise would require a carefully considered written opinion, and that delay would prevent this important case from being heard at the November Term of the Circuit Court of Appeals. The learned Judge then goes on to say: "I am free to say that the question ap- "pears to me a very close one, and that I incline to the "views expressed in the dissenting opinion of General "Appraiser Tichenor."

The Circuit Court of Appeals affirmed the decision of the courts below, the Court saying: "We find that the "Russian exporter of sugar obtains from his Government "a certificate, solely because of such exportation, "which is worth in the open markets of that country "from R. 1.25 to R. 1.65 per pood, or from $1\frac{8}{10}$ to $2\frac{35}{100}$ "cents per pound; therefore we hold that the Govern- "ment of Russia does secure to the exporter of that country, "as the inevitable result of its action, a money reward or "gratuity whenever he exports sugar from Russia." The learned Court further says: "In affirming the decree of "the Court below we also affirm the judgment rendered by "the Board of General Appraisers, whose opinion so fully "expresses our views and so ably presents the facts in-

"volved herein and the law applicable thereto, that we "deem it entirely appropriate to adopt the same as part of "the opinion of this Court."

The grounds of the decision of the Circuit Court of Appeals, therefore, are two-fold:

FIRST.—That the remission of the excise tax, upon the exportation of the sugar, was a bounty or grant within the scope of Section Five.

SECOND.—That the issuance to the exporter of a certificate which had a substantial market value operated as a bounty or grant upon exportation.

SPECIFICATION OF ERRORS.

The decree of the Circuit Court of Appeals having affirmed the decisions of the Circuit Court and of the Board of General Appraisers that Russia paid or bestowed a bounty or grant on the exportation of these sugars, the petitioner herein respectfully alleges that the decree is in error in that the said decisions were not reversed, and the protest of the importer sustained, on the ground that no bounty or grant was in fact paid or bestowed on the exportation of these sugars within the meaning and scope of Section 5 of the Tariff Act of July 24, 1897.

Synopsis of Argument.

Analysis of the Russian Sugar Law, its causes, theory and application, and the alleged "bounties" thereunder (pp. 7-25).

Point One: Section 5 applies only to bounties on exportation, and the purchase price of the "free sugar" export certificate is not such a bounty (pp. 26-31).

Point Two: Even if the section were not limited to bounties conditioned on exportation, the purchase price of the certificate would not be within the scope of the section (pp. 32-37).

Point Three: It is not true that the Russian Law requires the exportation of any portion of the product as a condition precedent to the sale of the balance in the home market (pp. 38-40).

Point Four: What the Brussels Conference really decided and the effect thereof (pp. 41-42).

Point Five: The remission of excise taxes is not a bounty on exportation within the scope of Section 5 (pp. 43-46).

Point Six: The importer must have the benefit of the doubt, if any doubt exists (pp. 47-48).

Conclusion: (p. 48).

ARGUMENT.

Analysis of the Russian Sugar Law, its causes, theory and application, and the alleged "bounties" thereunder.

I.

CAUSES.

The Russian Sugar Law is not a covert scheme to pay concealed bounties on exportation, but the genuine effort of a paternalistic government to wrest the control of the trade from a pernicious Sugar Ring and to regulate the industry in the interest of producer and consumer alike.

Some years prior to the enactment of the law the overproduction of sugar in Russia became so great that the Government was obliged to interfere to save the refineries from ruin. At first, by the payment of large export bounties, the Government hoped to rid the market of its surplus sugar; then, finding that this increased rather than lessened the evil of overproduction, export bounties were abolished and in their stead the Government sanctioned the formation of a syndicate or trust, which should control production. The trust proceeded to put up prices to an exorbitant figure, and maintained them there by exporting the surplus. On one occasion the Government was obliged to import sugar to supply the demand owing to the action of the Ring in exporting the surplus of the year before. The prevailing high prices attracted new capital into the industry; production increased enormously, and finally when prices abroad fell excessively owing to the action of Germany, Austria and France in paying large export bounties, the refiners applied once more to the Government to avert the threatened crisis.

After much investigation of the subject the Government abolished the sugar trust, and promulgated the present law, whose objects may be best stated in the words of the recent Identical Note delivered to the representatives of the powers at St. Petersburg:

"The Russian Government only regulates the distribution " of sugar on its home market, its purpose being on the one " hand to antagonize overproduction of sugar and on the " other gradually to bring about lower prices and greater " consumption for that product in this country. It pro- " tects home consumption against rises in the prices and " production against sudden and considerable falls."

The British Consul at St. Petersburg says in his report on the beet root sugar industry in Russia (No. 471, Misc. Series, July, 1898):

" The Government having refused to prolong the exist- " ence of the syndicate, ultimately introduced a measure " of its own, which was anything but favorably received " by those engaged in the production of sugar. Recog- " nizing the necessity of taking steps, called forth by the " present critical position of the sugar industry, and to " guarantee the home market with sugar as well as the " fixing of a moderate price, it is Imperially sanctioned," &c., &c.

The Russian delegate to the Brussels Conference of 1898, says:

" The Government, apprehending a serious crisis, took " hold of the interests of the sugar manufacturers; it had " also to make sure of the collection of the 50 million " roubles of excise duty " (Rep. of Conf., pp. 47, 48).

II.

THEORY OF THE LAW.

A high and practically prohibitive protective tariff eliminates foreign competition and ensures to the Russian

sugar manufacturer a highly profitable home market (Stip 9, Rec., p. 10; Opinion Board of Appraisers, Rec., p. 29). On the other hand, to protect the consumer against excessively high prices, the law directs the ministry to fix a maximum beyond which the price of sugar shall not go (Law, § 1, *c.*, Rec., p. 41), and a large amount of sugar known as the "indivertible reserve" is set aside from the output of each mill (Law, § 1, *b.*), to be thrown upon the market in case the maximum limit is exceeded (Law, § 7, Rec., p. 41). Revenue for the Imperial treasury is supplied by an excise tax on all sugar produced, the tax being remitted on export (Law, § 9, Rec., p. 41).

The chief object of the Government, however, was to prevent, or at least to discourage, overproduction with its attendant evils, and to accomplish this the law *penalizes* overproduction by imposing thereon double the normal excise tax! That is to say, the ministers estimate annually in advance the amount of sugar which will be required for consumption, and the law imposes thereon the normal excise tax of R. 1.75 per pood (36 lbs.) All sugar produced in excess of the amount so estimated for consumption (except that set aside as "indivertible reserve") is required to pay not only the normal excise tax, R. 1.75, but an additional tax in the same amount (Law, § 5, Rec., p. 41). The sugar required for consumption and which pays the normal tax is called "free sugar"; the excess, subject to the additional tax, is known as "surplus," "free surplus" or "free reserve."

III.

Distribution of "free sugar."

The diverse conditions of soil and climate, and the excessive variations in the quantity and quality of the beet crop, make it impossible for the manufacturers to limit

production so that it shall just equal consumption, *i.e.*, so that all their sugar shall be "free" and liable only to the normal tax. It is inevitable that in most campaigns production will exceed the amount estimated to be required for consumption, although the latter figure is constantly increasing.

In order, therefore, that all manufacturers may share justly in the right to sell "free sugar," *i. e.*, that which is subject to the normal excise, and to ascertain the proportionate quota of each factory, the ministry are directed by the law to estimate the probable national consumption and the probable production, *and the product of every factory is then divided up according to the ratio between these estimates* (Law, § 1*a*; Reg. §§ 1, 2, 3, 4; Rec., pp. 40, 42, 43). For instance, if the ministers estimate the national consumption at 35 million poods, and the probable production at 50 million poods, 35/50 of the daily production of each factory will be set apart as "free sugar" by the inspector, and 15/50 (less a certain portion of "indivertible reserve") will be set apart as "surplus" (Law, § 3 *et seq.*; Rec , p. 41; Cons. Rep., Rec., p. 60).

His quota of "free sugar" the manufacturer can sell upon the home market under the normal excise of R.1. 75 per pood (Stip. 4*a*; Rec., p. 9). His "surplus" he may either (1) place on the home market by paying the double excise (Law, § 5; Rec., p. 41); or (2) leave in the mill where it is not subject to the tax, (*Ibid*); or (3) have transferred to the production account of the next campaign, where it will serve to increase the amount on which is figured his percentage of "free sugar" (Reg. 19; Rec., p. 50); or (4) export, free from excise (Law, § 9; Rec., p. 41).

IV.

"Transfers."

This impartial division of the product of all factories into "free sugar" and "surplus" is not as equitable as it appears, for the right to issue "free sugar" into the home market is more valuable to the manufacturer located at Moscow or St. Petersburg, where the demand ensures maximum prices, than to one located at a small provincial town. The Moscow manufacturer could reap a large profit not only on his quota of "free sugar," but also on his "surplus," if he were allowed to sell the latter at the normal excise, *i. e.*, as "free sugar."

Inasmuch, however, as the total amount of "free sugar" allowed for the Empire is "definitely fixed at the total amount required for consumption" (Stip. 1, Rec., p. 8), it is obvious that the Moscow manufacturer can enlarge his Right of Issue, *i. e.*, can convert his "surplus" into "free sugar," only at the expense of some other manufacturer by inducing the latter to convert a like quantity of his "free sugar" quota into "surplus."

That is to say, the Moscow manufacturer can enlarge his Right of Issue into the home market only by purchasing the Right belonging to some other manufacturer. The total Right of Issue belonging to the two is not increased by this process, but it is all vested in the Moscow manufacturer, and thus the ratios established by the ministers are not disturbed.

As it is immaterial to the Government how the manufacturers redistribute among themselves the right to issue "free sugar" into the home market, provided the total amount allowed as "free sugar" for the Empire is not exceeded, the law (Regs. 39, 40, Rec., p. 57) provides a

method by which one manufacturer *may cede to another his Right of Issue*, as follows:

"Section 39.—A manufacturer may cede to another "manufacturer his right to place on the home market "free, *i. e.*, without the payment of an additional tax, his "allotted quota of sugar.

"Section 40.—In relation to such cession, the following "rules may be observed:

"(1.) The manufacturer who assigns to another manu- "facturer his right to dispose of a certain quantity of "sugar free must give notice thereof to the local excise "board, which first orders to be held at the mill a quan- "tity of free sugar equal to that about to be assigned, "and immediately thereupon duly communicates with "the excise board having jurisdiction of the mill in "whose favor the assignment is being made.

"(2.) If the assignment is accepted by the latter mill, "the quantity of free sugar in said mill is correspond- "ingly increased by transfer from the free surplus (not "from the indivertible reserve), of which a memorandum "is made by the excise officers in charge; thereupon the "excise board, from which the communication in relation "to the assignment of free sugar has been received, is "notified of the acceptance of said assignment.

"(3.) Upon receipt of the notification that the assign- "ment has actually been accepted, the quantity of 'free "sugar' at the factory by which the assignment has "been made is correspondingly reduced by transferring "the same into the free surplus (or free reserve), of which "a memorandum is made by the excise officer in charge.

"(4.) The reduction of the quantity of free sugar at one "mill and the increase thereof, by assignment, at another "mill, are entered in the proper books of the mill."

Thus, by a mere bookkeeping operation, without any actual transfer of sugar from one mill to the other, the assignee's "surplus" sugar has been converted into "free sugar," which he can sell at the normal excise; and the

assignor's "free sugar" has become "surplus," which, as we have seen, he can only (1) place on the home market by paying the double excise; or (2) export; or (3) leave in the mill where it is not subject to the tax; or (4) have transferred to the production account of the next campaign (*Supra*, p. 10).

Should he conclude to export what has now become "surplus" sugar, the transferor will obtain in the foreign market a price which is, as a rule, less than that which he would have obtained had he sold his sugar as "free" on his local market. Accordingly, *the consideration which the Moscow manufacturer must pay to induce the other to transfer his Right of Issue is measured by the difference between the home market price and that prevailing on the foreign market.*

To quote the American Consul (Rec., p. 17): "As the "first and second methods of disposing of his sugar (by "selling under the double tax or exporting), are less ad- "vantageous than placing the article on the home market "as free sugar, the manufacturer who ceded his right "receives from the manufacturer who acquired the right "the price per pood agreed upon between them, *which is* "*usually determined by the difference existing at the* "*moment between the price obtainable for the sugar on* "*the home market and the price obtainable by sale abroad.* "This is what is termed a transfer. Dependent upon the "fluctuations in price of sand sugar in Russia and abroad, "the price for these transfers also varies; therefore, the "person who sells the transfer, the right of issue into the "home market, charges several copecks more than the "difference mentioned above. This is done on account "of the risk that is taken that sugar prices abroad may "fall, and also for the trouble involved in exporting, &c. "EXAMPLE: Price of sand sugar at a station in the south- "western region, (a) for the home market, Rs. 4.25 per "pood, or without excise Rs. 2.50; (b) for abroad, Rs. 1.25. "Consequently, the difference or value of transfer is Rs.

" 1.25; but in that case, for the reasons given, Rs. 1.28 to " 1.30 is paid for the transfer."

The attention of the learned Court is particularly directed to the fact that this transfer of the Right of Issue does not involve, as a condition thereto, the export of any sugar whatever. The transfer is effected as a matter of bookkeeping, and the sole condition is that one man's " free sugar " shall diminish *pari passu* with the increase of another's quota. When the transfer is complete the transferor may, as a matter of business expediency, export his increased " surplus " sugar, but he is under no obligation to do so, and he may find it more profitable to leave the " surplus " in the mill, to be transferred to the production account of the following year, under Regulation 19.

It is the prevailing custom to say that the Right of Issue into the home market can be increased only on condition that a certain amount of sugar be exported, but such a statement is due to an entire misapprehension of the Russian Sugar Law.

V.

" TRANSFERS " MISAPPREHENDED BY COURTS BELOW.

The general misconception of the Russian Sugar Law, and the difficulty and abstruseness of its problems, are nowhere better illustrated than in that portion of the opinion of the Courts below dealing with this matter of " Transfers."

The majority opinion of the Board of Classification was adopted as the opinion of the Circuit Court of Appeals, because it " so fully expresses our views and so ably " presents the facts involved herein and the law applic- " able thereto "; and we find the following statement as

the understanding of the Board upon this subject (Rec., p. 30):

"The particular bounty or grant which seems to be "conferred by the Russian Law upon the exportation of "sugar, accrues under Section 39 of said law, providing "that 'a manufacturer may cede to another manufac- "'turer his right to place on the home market free, *i. e.*, "'without the payment of an additional tax, his allotted "'quota of sugar.' This cession can be made only in "accordance with certain rules prescribed in Section 40 "of said law, by which notice of such transfer is required "to be given to the local excise board, authorizing the "reduction of the quantity of free sugar in one mill and "the increase thereof by assignment at another mill.

"This cession or transfer is accomplished by means of "Government certificates or vouchers, which operate as "follows, *e. g.*: Refiner A is authorized to get the benefit "of the failure of Refiner B to supply the home market "with his full quota of free sugar. Hence, Refiner A "becomes willing to pay Refiner B a certain required sum "if he will export a portion of his allotted quota of sugar, "and he accordingly gives A the official evidence of such "exportation in the form of a voucher certificate, as "above described; and this, under the operation of the "Russian Sugar Law and regulations, authorizes A to "sell in the home market, at a tax of R. 1.75 per pood, "an equivalent portion of the sugar produced by him, A, "in excess of his quota."

It is hardly necessary to point out to this learned Court that the cession allowed by Section 39 is not "accomplished by means of government certificates or vouchers," but by entries in the books of the respective mills, as set forth above; that the transfer does not involve the export of any sugar at all, and therefore the assignor cannot give to his assignee "the official evidence of such exportation"; in short, that the Board of Classification has confused the "Transfer" provided for by Sections 39 and 40 with the "Export Certificate" issued under an entirely separate

and distinct section of the Regulations, and for a purpose in no way related to that of the Transfers!

The American Consul falls into the same confusion of thought (Rec., p. 16) when he says:

"It is permitted to export free sugar abroad not only "for the purpose of liberating for admission to the home "market the 'free reserve' of any one factory, but also "of any other factory. For this purpose the owners of "the factories, who enter among themselves into such an "agreement, must notify their local excise officials and "these in turn must notify each other."

In the first sentence the Consul has reference to Export Certificates and in the last to Transfers. The Transfer provided for by Regulations 39 and 40 is not aided by any Export Certificate *for it takes effect regardless of, and in the absence of, any export. After* the transfer the assignor may or may not export, but he then has only "surplus" sugar and no "free sugar" at all, and it is, therefore, incorrect to say that in this transaction he exports "free sugar" abroad for any purpose whatever.

VI.

EXPORT CERTIFICATES FOR "SURPLUS" SUGAR.

We have seen that every manufacturer has his product divided up into, say, 35/50 "free sugar" and 15/50 "surplus sugar," less a small portion set aside as "indivertible reserve." If his factory is located far inland, it is probable that the manufacturer will take advantage of Regulation 19, and transfer his "surplus" to the following year, where it will serve to increase his allowance of "free sugar." If, however, the manufacturer is near a seaport he may prefer to export his "surplus" even at the lower prices obtainable abroad.

In such case Regulation 38 (Rec., pp. 55, 56) requires that the additional tax

"must first be secured in full by cash, excise credit "vouchers, or such funds as are accepted as security for "the tobacco excise, or by the stock of sugar free or of "the free reserve on hand in the factory" (Subdiv. 2).

Then the excise inspector endorses on the bill of lading that the sugar is from "surplus" sugar and issues a *separate certificate*, setting forth the name of the mill, the bill of lading and the weight of the sugar (Subdiv. 1).

"After forwarding the transport across the border, the "Custom House delivers to the shipper, in lieu of refund- "ing the excise (not the additional tax, however) a "*voucher* crediting the same on his sugar excise account "and marks down by endorsement on the certificate of the "excise office presented by him the time of export, the "net weight of the exported sugar and the credit voucher "issued," &c. (Subdiv. 3).

The export certificate must be returned to the inspector of the mill within six months,

"whereupon the additional tax charged upon the ex- "ported sugar is remitted by the excise officer by a corre- "sponding credit in proportion to the quantity of sugar "exported, and the deposits securing the same are re- "leased" (Subdiv. 4).

Thus, for the remission of the normal tax a credit "voucher" is issued; whereas for the remission of the additional tax (to which the "surplus" sugar alone is liable) the export certificate must be returned to the mill *and that is the sole function of this kind of export certificate, i. e., a "surplus" sugar export certificate.*

VII.

EXPORT CERTIFICATES FOR "FREE SUGAR."

The protection of the excise requires that the additional tax should be secured before "surplus" sugar goes from the mill. It is nevertheless a hardship that the exporter should have to tie up a large amount of quick assets until the certificate of export duly indorsed returns to his inspector. Recognizing this, the law allows him to export "free sugar" in the stead of "surplus," and then replace it by transfer from "surplus" account. Thus he has to give security only for the normal tax, while in effect exporting "surplus" sugar.

The note to Regulation 37 provides that

"the mill owner is allowed to export free sugar on ac-
"count of his surplus for the same campaign. For this
"purpose the export is made in the manner hereinafter
"set forth except that the excise office notes on the cer-
"tificate 'from free sugar,' and requires no security for
"the additional tax. Upon the return of the certificate
"with the custom house export mark, the excise office
"credits the exported quantity of sugar to the free sur-
"plus of the mill, if such there be, and increases by a
"like quantity the allowance of free sugar, of which a
"memorandum and an entry in the book must be made."

Suppose, for instance, that a manufacturer located at a seaport has in his factory 350,000 poods of "free sugar" and 150,000 poods of "surplus," and finds it more profitable to export the "surplus" than to carry it over to another campaign. Instead of exporting the actual sugar marked "surplus" and giving security for the double excise, he exports 150,000 poods of "free sugar," gives security for the single tax and obtains from the inspector a certificate that the sugar is "free sugar." At the Custom House the fact of exportation is endorsed on his certificate, and he is given the usual credit "voucher" which obtains

the remission of the single tax for which he has given security. When he presents his certificate, showing that 150,000 poods of "free sugar" have been exported, the inspector in charge of his mill transfers the 150,000 poods of "surplus" sugar remaining there to the "free sugar" account, and the manufacturer now has his original amount of "free sugar" and no "surplus." *This is the function of the "free sugar" export certificate: to obtain a transfer of sugar from "surplus" to "free" account.*

The plain intent of the Government in granting this privilege was to facilitate business and make the burden of the regulations as light as possible; and to this the American Consul testifies (Rec., p. 61), when he says that the right was granted to the manufacturer

"to avoid the necessity of giving securities as guarantee
"for additional excise and in general for the greater free-
"dom in business transactions."

This testimony as to the intent of the law is important as rebutting the oft-repeated claim that in this portion of the Sugar Law the Russian Government conceals the alleged bounty.

VIII.

Traffic in "Free Sugar" Export Certificates.

We have seen that when a manufacturer exports "surplus" sugar he obtains a credit voucher remitting the normal excise, and a "surplus" certificate of export which entitles him to the remission of the additional tax. When he exports "free sugar" he receives the same voucher for the normal excise and a certificate attesting that the sugar exported was "free sugar." This "free sugar" certificate does not, as in the case of the "surplus" certificate, serve to remit the additional tax, for "free sugar" is not sub-

ject to such tax; but upon presentation of the certificate to the inspector of his mill, the shipper is entitled to have transferred from "surplus" to "free sugar" account an amount of sugar equal to the "free sugar" shown by the certificate to have been exported.

This "free sugar" export certificate is negotiable and any holder thereof is entitled to have transferred a like amount of sugar from "surplus" to "free sugar" account. The total amount of sugar allowed by the ministers for national consumption has been depleted by the export of this "free sugar"; the certificate attests that fact, and the holder thereof, whether he be the exporter or the purchaser of the certificate, (for it is immaterial to the Government who exercises this Right of Issue), has the right to *restore the depletion* by issuing upon the home market as "free sugar" an equal amount of his "surplus." So it is stipulated in this case:

"That said sugar certificates are sold to and used by "sugar manufacturers or refiners who are thereby en- "abled to transfer from their 'free reserve' or 'free "surplus' to their 'free sugar' an amount of sugar "equal to the amount shown by said certificates to have "been exported, which amount may then be sold for "domestic consumption on paying the ordinary tax of R. "1.75 per pood (to which free sugar is regularly sub- "ject) instead of a tax of R. 3.50 per pood" (Stip. 8, Rec. p. 10).

IX.

PURCHASE PRICE OF "FREE SUGAR" EXPORT CERTIFICATES.

The "free sugar" certificate, like the "Transfer," is valuable solely because it represents the "Right of Issue" into the home market, and as this Right is more valuable to the Moscow manufacturer than to the exporter, situ-

ated probably at an obscure seaport town, so it is the Moscow manufacturer who purchases the certificate and is enabled thereby to convert a like amount of his useless "surplus" into "free sugar" for sale on his profitable local market.

As in the case of the "Transfer," the total of "free sugar" allowed to the two manufacturers has not been increased; nor the total export, for what one manufacturer exports, the other withdraws from export; but the Moscow manufacturer has done all the selling on the home market and the seaport manufacturer all the exporting. The former has secured the large profits in the Moscow market and saved his freight to the coast; while, on the other hand, the seaport merchant has sacrificed the profits on his local market which, while not as great as those at Moscow, are nevertheless larger than he can obtain abroad.

Obviously, then, as in the case of the "Transfer," the price which the seaport merchant must receive for thus transferring to another his Right of Issue into the home market—that is to say, the price which he must receive for his export certificate, is the difference between what he would have received had he sold his "free sugar" on the home market, and the price he will obtain on the foreign market. So it is stipulated in this case (Stip. 7, Rec., p. 9):

"That the Government issued to the exporter a cer-
"tificate certifying that he had exported such a
"quantity of so-called *free sugar;* that the said
"certificates have a substantial market value
"and are transferable, and *that the price thereof is*
"*usually determined by the difference existing at the*
"*time between the price obtainable for the sugar on the*
"*home market and the price obtainable abroad.*"

In other words, as in the case of the "Transfer," if the price in the home market is R. 2.50 per pood and the

foreign price R. 1.25, the certificate will be worth the difference between these two, *and the exporter will receive the same gross amount as if he had not exported his "free sugar," but had sold it in the home market.* Thus:

By sale at home he obtains the market price		R. 2.50
By sale abroad he obtains the foreign market price	R. 1.25	
Also the price of certificate	R. 1.25	
		R. 2.50

In practice, of course, as in the case of all commodities, the market value of these certificates must vary according to the demand and supply, but the theory underlying the transaction is always this, that the exporter shall suffer no loss because he has exported his "free sugar" instead of selling it in the home market.

X.

EXPORTATION IS NOT THE FOUNDATION OF THE VALUE OF "FREE SUGAR" EXPORT CERTIFICATES.

Contrasting "Transfers," "free sugar export certificates" and "surplus sugar export certificates," it will be noted that "free sugar certificates" are more nearly assimilable to "Transfers" than to "surplus certificates"; in fact, the two kinds of export certificates have nothing in common except that they attest the simple fact of exportation.

The "free sugar certificate" does not owe its value to the fact that a certain amount of sugar has been *exported* from Russia, but to the fact that the total "free sugar" required for national consumption has been thereby *depleted*, and the purchaser of the certificate acquires the right to make good the depletion, *i. e.*, to issue "free sugar" into the home market. *Since "surplus"*

certificates do not attest this depletion, they have no pecuniary value except as vouchers for the remission of the additional tax (*supra*, p. 17); on the other hand, "Transfers" involve no export at all, and yet, as they attest the depletion of the "free sugar" total (by transfer of sugar from "free" to "surplus" account on the books of the mill), "Transfers" *have the same market value* as "free sugar" export certificates (*supra*, pp. 13, 21).

Since *exportation* is attested by both "free" and "surplus" certificates, and yet the former have a substantial market value and the latter none at all; and since the *depletion* of the total "free sugar" is attested both by "Transfers" involving no export at all, and by "free sugar" export certificates, and these have the same market value; therefore it is obvious that *it is not the fact of exportation but the fact of depletion which gives the "free sugar" export certificate its value.*

IX.

The alleged "bounty on exportation."

It is the purchase price of this "free sugar" export certificate which the courts below have held to constitute a bounty on exportation within the scope of Section Five.

His Honor, Judge Goff, reading the opinion of the Circuit Court of Appeals, says (Rec., p. 83):

"We find that the Russian exporter of sugar obtains "from his government a certificate, solely because of such "exportation, which is worth in the open markets of that "country from R. 1.25 to R. 1.65 per pood or from 1.8 "to 2.35 cents per pound; therefore, we hold that the "Government of Russia does secure to the exporter "of that country, as the inevitable result of its action, a "money reward or gratuity whenever he exports sugar "from Russia."

The majority of the Board of Classification held that a bounty was paid upon the exportation of this sugar because

" the certificate which the Government issued to him upon
" the exportation of his sugar had a substantial market
" value, and was transferable and operated as a premium,
" grant, bonus or reward."

The Honorable Secretary of the Treasury has stated that

" the amount of such bonus, as shown by the reports of
" our Consul at Odessa, is represented by the price of ex-
" port certificates which are sold by the exporters of sugar
" to those refiners who have an excess of sugar for sale in
" the home market; the minimum price of such certificates
" is one rouble per pood " (Appendix to the Brief of the counsel to the Treasury Department at the hearing of this case before the Board of Classification).

XII.

CONCLUSION.

It is submitted, respectfully and with the utmost deference, that the opinions of the learned Courts below state only half the truth.

It is true that the exporter " receives a money reward " or gratuity whenever he exports sugar from Russia." It is equally true, however, that he receives the same money reward or gratuity when he does *not* export his sugar, but sells it on the home market. In other words, the " money reward or gratuity," if it be a bounty at all, *is not conditioned on exportation, and hence not within the purview of Section five.*

Moreover, this " money reward or gratuity " is the equivalent of, and substitute for, the high prices on the protected home market which the exporter would have

obtained had he sold his sugar therein. Therefore, even if Section five were not limited to those bounties conditioned solely on exportation, the section would not apply, for Congress cannot have intended to penalize as bounties the enhanced prices due to the operation of a protective tariff.

In the following Points, counsel will endeavor to maintain these propositions, and the further proposition that the remission of an excise tax is not, as claimed by the Board of Classification, a bounty on exportation.

POINT ONE.

Section Five applies only to bounties on exportation. and the purchase-price of "free sugar" export certificates is not such a bounty.

I.

Section five applies only to bounties on exportation as distinguished from bounties on production.

The bounty mentioned in the section is expressly a "bounty or grant *upon the exportation* of any article of "merchandise." The prototype of Section five was Section 182½ of the Tariff Act of 1894, which levied an additional duty on all sugars imported from a country "which *at the time the same are exported therefrom*, "pays, directly or indirectly, *a bounty on the export* "*thereof*."

It is evident that "bounties on exportation" must, as the name implies, be *conditioned* on exportation, and that exportation furnishes the consideration therefor. As said by Mr. Justice Brown, in Allen *vs.* Smith (173 U. S., at 402):

"Bounties granted by a Government are never pure "donations, but are allowed either in consideration of "services rendered, or to be rendered, objects of public "interest to be obtained, production or manufacture to "be stimulated or moral obligations to be recognized. "To grant a bounty irrespective altogether of these con- "siderations would be an act of pure agrarianism, and to "determine who is entitled to the benefit of the bounty "is but little more than to determine who has rendered "the consideration."

Bounties on exportation, therefore, are to be carefully distinguished from bounties on production, for exporta-

tion forms no part of the consideration for the latter. Bounties on production accrue to all who produce, regardless of exportation; whereas bounties on exportation accrue to those only who export. It is true that a commodity which has received the benefit of a bounty on production may be subsequently exported, but that does not convert the bounty into a bounty on exportation, for exportation formed no part of the consideration therefor.

This distinction between bounties on production and bounties on exportation was recognized by the Brussels Sugar Conference of 1898, which classified bounties as:

"(*a.*) The direct advantages granted in case of exportation;

"(*b.*) The direct advantages granted to production" (Rep. of Conf., pp. 61, 65).

So, too, the treaty proposed by the Sugar Conference of 1902 binds the parties to suppress:

"(*a.*) The direct bounties granted to exports.

"(*b.*) The direct bounties granted to production."

Expressio unius exclusio alterius est.

By specifying only "bounties upon exportation" Congress must have intended to *exclude* bounties on production from the operation of Section five, and such was the view of the Courts below.

In the Circuit Court of Appeals, his Honor Judge Goff, reading the opinion of the Court, finds that the Russian exporter receives a bounty within the meaning of Section five, because he

"obtains from his Government a certificate *solely because* "*of such exportation*, which is worth," etc. (Rec., p. 82). And again: "Therefore, we hold that the Government of "Russia does secure to the exporter of that country, as "the inevitable result of its action, a money reward or "gratuity, *whenever he exports sugar from Russia.*"

In the Circuit Court, Judge Morris says that the sole question is whether there was bestowed

"*on the exportation* of this sugar, directly or indirectly, "any bounty or grant" (Rec., p. 74); and the Board of Classification is "impelled to the conclusion that the Rus- "sian sugar statutes and regulations operate to pay or "bestow a bounty or grant, directly or indirectly, *upon* "*the exportation of sugar*" (Rec., p. 34).

Discussing this section in its application to the Netherlands sugar law, the Circuit Court of Appeals for the Second Circuit held that the bounty paid thereunder was within the scope of the section, *because it was a bounty conditioned on exportation and not a bounty on production*, Judge Lacombe saying that the law in effect provided that

"those who export their sugar may keep this bounty, "those who do not must forthwith return it to the Gov- "ernment" (Hills Bros. Co. *vs.* United States, 107 Fed. Rep., 107).

Unless, therefore, the bounty alleged to be paid by the Russian Government be *conditioned solely on exportation*, and in such fashion that the exporter gets it and the non-exporter does not; unless, in other words, the exporter is *placed in a better position than if he had not exported*, then the bounty is not a true bounty on exportation, and Section five can have no application thereto.

II.

The purchase price of the "free sugar" export certificate is not a bounty on exportation, and hence not within the scope of Section five.

It is stipulated in this case (Stip. No. 7, Rec., p. 9), that the price of the "free sugar" certificate is

"usually determined by the difference existing at the "time between the price obtainable for the sugar on the "home market and the price obtainable abroad."

If, for instance, a manufacturer sells his "free sugar" on the home market he receives the home market price of say R. 2.50 per pood; whereas, if he exports his "free sugar" he receives the foreign price, say R. 1.25, and R. 1.25 as the price of his export certificate. (*Supra*, pp. 21, 22).

In other words, by exporting his "free sugar" and selling his export certificate the exporter receives *exactly the same amount* he would have received had he sold his "free sugar" on the home market. All producers fare equally well before the Law; those who sell at home receive the high prices ensured on the home market, while those who export receive what is equivalent thereto, viz.: the foreign market price plus the price of the export certificate.

Here, then, is no "bounty on exportation," for the reward of the manufacturer is not conditioned on exportation, nor is it greater than it would have been had he not exported. Bounty on production this reward may be, but certainly not bounty on exportation, for it is a contradiction in terms to call that a bounty on exportation which is received, in one form or another, by all manufacturers alike, whether they export or do not export.

It is true, as stated in the opinion of the learned Circuit Court of Appeals, that the Government of Russia does secure to the exporter "a money reward or gratuity whenever he exports sugar from Russia." It is equally true, however, that the manufacturer receives the same "money reward or gratuity" whenever he does *not* export, and therein lies the defect in the reasoning of the learned Court below, for to be a bounty on exportation it is not enough that the "money reward or gratuity" should be

received on exportation; it is essential that it should be *not* received in the event of non-exportation.

The Russian manufacturer obtains, as the price of his certificate, a "money reward or gratuity whenever he "exports sugar from Russia," *but as this sum, added to the price he receives for his sugar abroad, exactly equals the amount he would have received had he sold his sugar on the home market, it is evident that he obtains the very same "money reward or gratuity" whenever he does not "export sugar from Russia," only it is in the shape of the high prices ensured on the profitable home market.*

Inasmuch, therefore, as this "money reward or gratuity" is not conditioned solely on exportation and does not place the exporter in any better position than if he had not exported, it cannot constitute a "bounty upon exportation" within the purview of Section five, and the section can have no application thereto.

III.

The purchase price of the "free sugar" export certificate is no more a bounty on exportation than is the right represented by the certificate, viz.: the right to issue free sugar into the home market. Merely liquidating the value of the right cannot convert that into a bounty on exportation which was not one before.

When a manufacturer exports "free sugar" for account of surplus, thereby avoiding the necessity of giving security for the additional tax (*supra*, p. 18), he obtains a certificate attesting the fact, and when he presents this certificate to the inspector of his mill an equal amount of "surplus" sugar is transferred to "free sugar" account. *In the hands of the exporter, therefore, the certificate simply represents his original right to issue his quota of "free sugar" into the home market at the normal tax;*

and it is this Right of Issue that the exporter transfers when he sells his export certificate (Stip. 8, Rec., p. 10).

Had the exporter chosen to exercise this original Right of Issue instead of transferring it to another, he could have done so *regardless of exportation*, for there is nothing in the Russian Law requiring exportation of any portion of his product as a condition precedent to selling the remainder on the home market. (*Infra*, Point Three, where this subject is examined *in extenso*.) Therefore, this original Right of Issue, in the hands of the manufacturer, cannot be considered a "bounty on exportation" as the term is used in Section five. (*Supra*, pp. 26 *et seq.*)

Not being a bounty on exportation in the hands of the original owner, the Right of Issue does not become a bounty on exportation simply by being transferred, nor can the purchase price thereof be considered such a bounty.

In other words, the purchase price of the "free sugar" export certificate is merely a liquidation of the value of the right represented thereby, viz., the right to issue "free sugar" into the home market at the normal excise. *As this Right of Issue is not conditioned on exportation, and therefore not a bounty on exportation, it follows that the purchase price of the Right, the money-equivalent thereof, cannot be a bounty on exportation, for merely converting the Right into money cannot transform that into a bounty which was not one before.*

Nor can it be said that exportation is a condition precedent to the *transfer* of the Right of Issue, and that therefore the price thereof is in effect a bounty on exportation. It is true that the export certificate itself is, as its name implies, conditioned on exportation; not so, however, the transfer of the Right represented thereby; and the proof lies in the fact that this Right may be equally well transferred by direct "Transfer" which, as we have seen (*supra*, p. 14), involves no export at all, but merely an entry in the books of the respective mills.

POINT TWO.

The purchase price of "free sugar" export certificates would not be a bounty within the scope of Section Five even if the section were not limited to bounties conditioned on exportation.

I.

By means of a high protective tariff and by further limiting the market to a portion only of the product, the Russian Government creates a profitable home market and ensures to the manufacturer a high price for his sugar (Rep. of Conf., p. 59). The purchase price of the Right of Issue into this profitable home market, whether it be represented by a "Transfer" or by an "export certificate", is the precise money-equivalent of, and a substitute for, this artificial enhancement of prices, for it is measured by the difference prevailing at the time between the home and the foreign prices of sugar (*supra*, pp. 20, 21, 22).

The question, therefore, resolves itself into this: Do the high prices ensured by an artificial limitation of the home market, whether by a protective tariff or otherwise, constitute such a bounty as is condemned in Section five?

II.

It is not denied that the enhanced prices secured to manufacturers by the operation of a high protective tariff constitute a virtual bounty *on production*.

This was very clearly pointed out by Alexander Hamilton in his famous "Report on Manufactures":

"Duties of this nature (protective), evidently amount "to a virtual bounty on the domestic fabrics, since by en-

"hancing the charges on foreign articles they enable the "national manufacturers to undersell their foreign com- "petitors."

In *United States* v. *Realty Co.*, (163 U. S., 427, at 434), Mr. Justice Peckham expounds the same theory in discussing the bounty provisions of the Tariff Act of 1890. He says:

"The tariff theretofore had been very high on imported "sugar, and the native industry had thereby been encour- "aged, fostered and greatly increased. The subject of "how to treat this industry was under discussion in Con- "gress while the tariff act of 1890 was before it and it "finally decided the question by enacting the bounty "clause of the Act. Before that time the revenue on im- "ported sugar had amounted to nearly $60,000,000 in one "year. To put sugar on the free list would reduce the "revenue that amount, but at the same time it might, as "was urged in Congress, ruin the persons engaged in the "industry in this country. So the tariff on sugar was "reduced, while at the same time *a bounty was placed* "*upon its production here of an amount which it was* "*thought would equal the protection the industry had* "*theretofore enjoyed under the tariff.*"

The same analogy between protective duties and bounties was set forth by Judge Pardee, in *Calder* v. *Henderson* (54 Fed., 802, 803), as follows:

"Prior to 1890 the production of sugar was fostered by "the Government of the United States by a protective "tariff, which imposed such duties upon imported sugar "as practically enabled the producers in this country to "obtain a price for the sugar produced by them, "compensatory of the cost of production; it be- "ing well understood that *without the enhanced* "*price resulting from the tariff*, sugar in quantities "could only be produced in the United States at a "loss to the producer. In 1890 the Government of "the United States, *without changing its policy in respect*

" *to sugar produced*, changed the method of encouraging " production by practically placing sugar upon the free " list and enacting the bounty system."

The Brussels Sugar Conference of 1898 reached the conclusion that

" advantages similar to those resulting from the bounties " hereinbefore defined may be derived from the disproportion between the rate of customs duties, and that of " consumption dues (surtaxes)." (Rep. of Conf., pp. 61, 65.)

Finally, the advantages secured to domestic producers by the operation of a high protective tariff are explicitly declared to be bounties by the Brussels Sugar Conference of 1902. The treaty proposed by the Conference provides that the contracting parties shall suppress direct and indirect bounties, notably:

" (*f.*) The advantages derived from any surtax in excess of the rate fixed by Article II." By Article III. the surtax is " limited to a maximum of 6 francs per " 100 kilograms ($1.15 for 220 pounds) for the refined sugar " and the sugars assimilable thereto, and 5.50 francs " ($1.06) for other sugars; that is to say, the difference " between the rate of duty or taxation to which foreign " sugars are subjected and that imposed on the home " product."

The Right Hon. Lord Pirbright, P. C., President of the Sugar Conference of 1888, in an article appearing in *The Empire Review* for April, 1902, says, page 264:

" The surtax has been admitted to be a most dangerous " form of bounty; but if any confirmation were want- " ing that surtax is a bounty, it is to be found in Article " I. of the present convention " (quoting the provisions set forth above).

III.

The question, however, is not whether protective duties are indirect bounties, but whether Congress *intended to include them within the scope of Section five*, and it is plain that Congress could not have had any such intention.

This very Section five is contained in a protective tariff act, "An act to provide Revenue for the Government "and to encourage the Industries of the United States"; and by the provisions thereof a complete and extensive system of protective duties is established. If protective duties be among the "bounties or grants" penalized in Section five, then Congress must have intended to condemn as bounty-paying on the part of other nations a system which has for many years been an integral part of the economic policy of the United States,—to condemn in one section of an Act the very system established by the rest of the Act. Such a contention would be absurd.

It would hardly be claimed, for instance, that advantages similar to those accruing to American manufacturers of distilled spirits were considered by Congress as among the bounties or grants condemned by Section five. Yet there is a perfect analogy between the position of the American distiller and that of the Russian sugar manufacturer. Both are ensured a profitable home market by the high protective tariff; both are subject to heavy excise taxes which are remitted on exportation; both are under the constant and inflexible supervision of Government inspectors; and, finally, it is well known that in the United States a combination of manufacturers secures by agreement that further limitation of the supply for home consumption which in Russia is provided for by law. If the profits of the American distiller do not constitute a "bounty or grant" within the scope of Section five, then no more do the profits of the Russian sugar manufacturer.

IV.

The action of the Russian Government in further limiting the market to a portion only of the product distinguishes the system in degree, but not in principle, from the American system. The artificial limitation of the supply on the home market is the foundation of the enhancement of prices in both cases, *and there is no distinction in principle between limiting a market to home producers by protective tariff and further limiting it to a portion of the product by statute.*

In the absence of customs duties prices in the home market are regulated by the relation between the domestic demand and the supply from all sources, domestic and foreign. A high tariff enhances these prices by cutting off a portion of the supply from abroad, and a prohibitive tariff further enhances them by eliminating foreign supply altogether. If now the supply is still further reduced by cutting off a portion of the domestic production it is obvious that the resulting enhancement of prices differs in degree, but that the underlying cause is the same, viz., the limitation of supply, demand being normal.

The question, therefore, always remains the same: do artificial limitations of a market constitute such bounties as are condemned in Section five?

V.

The wording of the section excludes the theory that Congress intended to include therein the "virtual bounties" resulting from the operation of protective tariffs or other artificial limitations of the home market.

Such bounties are, truly, "indirect bounties," *but the section does not mention "indirect bounties."* It applies only when a country shall "*pay or bestow, directly or indirectly,*" a bounty and there is a vast difference between

paying an *indirect bounty*, and *indirectly paying* a bounty. The Netherlands Sugar Law is an illustration of the *indirect payment* of a bounty. By the Netherlands Law a direct bounty is credited to all sugar produced, and an excise tax in a larger amount is levied thereon. The tax is remitted on export, leaving the direct bounty to be paid to exporters in cash. This system was held in the *Hills Brothers Case* (107 Fed., 107), to be within the scope of Section five, and the case is a good example of the efforts of the Courts to reach direct bounties on export, even though they be *paid* in an indirect and circuitous way.

CONCLUSION.

The purchase price of the export certificate, therefore, would not be a bounty within the scope of Section five, even if the latter were not limited to bounties conditioned on exportation, unless we are prepared to admit that Congress intended to penalize as "bounties" the enhanced prices due to artificial limitations of the home market by protective tariff or otherwise.

In its final analysis the Russian system is only an extension of the American protective tariff system, and the purchase price of the export certificate is the money-equivalent of the high prices on the home market ensured thereby.

It is not denied that, by limiting a market to home producers, protective tariffs artificially enhance prices, and thereby amount to a "virtual bounty" on the domestic product. The question, however, is not whether these artificially high prices are a "virtual bounty" *but whether Congress intended the phrase "pay or bestow a bounty or grant" to have any such extreme application;* and it could not have been the intention of Congress to condemn as bounty-paying in one section of an act, the very system established by the other sections of the act.

POINT THREE.

The Russian law does not, either directly or indirectly, require the manufacturer to export any portion of his sugar as a condition precedent to selling the balance on the home market. On the contrary, the law invites the manufacturer not to export but to carry over his surplus into the next campaign. This disposes of all arguments based on a supposed obligation to export in order to obtain the benefit of the artificially high prices in the home market.

The right to place on the home market "free" or "surplus" sugar upon payment of the excise tax is *absolute and unconditional.* It is stipulated in this case that,

"Under the Russian law all sugar is divided into "the three following classes: (*a.*) Free sugar, which "consists of a certain quantity of sugar which the Rus- "sian government *permits* a factory or refinery to sell "for home consumption under an excise tax of R. 1.75 "per pood. (*b.*) An obligatory or indivertible reserve. "* * * (*c.*) Free reserve *or* free surplus, which "* * * cannot be sold for home consumption *except* "upon payment of the regular tax of R. 1.75 and an ad- "ditional tax of R. 1.75, or R. 3.50 in all" (Rec., pp. 8, 9.)

The American Consul says (Rec., pp. 60, 61), that

"Each factory is *granted* the right to place on the "home market with payment at fixed dates of an excise "of R. 1.75 per pood" its allowance of 'free sugar,' and that its "surplus" sugar "may be placed on the home "market only on payment for each pood of R. 1.75 so- "called additional excise, independently of the payment

"of the excise at R. 1. 75 on the general basis." The Consul then gives an example wherein a certain factory has 12,456,000 poods of "surplus" sugar "for the export "board, when it is freed from excise, or for placing in "the home market, but with payment in this latter case "of the additional excise."

Nor can it be claimed that the law indirectly forces exportation because the additional excise is prohibitory and the manufacturer cannot do otherwise than export, *Exportation is not the only alternative to selling in the home market*, for the "surplus" may be left in the mill, where it is not subject to any tax (Law, § 5, Reg. 20; Rec., pp. 41, 51), *or it may carried over to the production account of the following campaign, as provided for in Regulation 19*, and the latter is the course usually adopted.

Regulation 19 (Rec., p. 50), provides that

"if a mill owner should want the free surplus of sugar "left at the mill toward the end of the campaign to be "canceled off the surplus account and transferred to the "sugar production of the coming campaign, he must "file with the Excise Board on or before August 1, a "special declaration to that effect, upon which the excise "officers in charge shall on September 1st duly enter in "their books of the closed and the coming campaign "the cancellation of such surplus and the transfer thereof "to the production of the new campaign."

On this "production of the new campaign," *as increased by the previous year's "surplus,"* is figured the percentage of "free sugar" allowed to each factory; and thus, by merely giving the requisite notice under Regulation 19, *the manufacturer can convert say 70 per cent. of his useless "surplus" into "free sugar," which he can sell on the profitable home market upon paying the normal excise.* It needs no argument to prove that the manufac-

turer is more likely to take this course than to export his "surplus" to the inferior foreign market.

Here, then, are no obligations to export, but rather inducements *not* to export. The market for "free sugar" is made highly attractive, and if the manufacturer will hold his "surplus" sugar for the few weeks intervening between the close of one campaign and the opening of the next, he can sell nearly three-quarters of it as "free sugar." By repeating this process for a year or two nearly the whole production of any campaign can be converted into "free sugar," and sold on the home market at the normal excise.

POINT FOUR.

The Brussels Sugar Conferences decided, not that Russia paid a bounty on exportation, but that the artificially high prices ensured on the home market by the high protective tariff acted as virtual bounties on production, enabling the manufacturer to endure losses abroad. The Conference covered the whole field of artificial advantages accorded by government, and if its conclusions are to be adopted the United States is the greatest bounty-paying country in the world. Congress could never have intended the words "bounty or grant" as used in Section five, to have any such extreme application.

One of the bounties whose abolition is desirable was declared by the Conference of 1898 to be

"(*b.*) The direct advantages granted to *production.*" It was further decided that "advantages similar to "those hereinbefore defined, may be derived from the dis- "proportion between the rate of customs duties and that "of consumption dues (surtaxes) especially when the pub- "lic powers impose, incite or encourage combinations "among sugar producers." (Rep. of Conf. p. 51.)

The gist of the oft-quoted Austrian delegate's contribution to the Conference, if carefully scrutinized, will be found to be only that Russia forces the consumer to pay high prices for sugar, thereby enabling the manufacturer to endure losses abroad; but even the Austrian delegate did not maintain that this bounty was conditioned on exportation.

The delegate finds (Rep. of Conf., p. 60) that "there "are annually sold in Russia at least 33 million poods at "R.1.50 per pood more than the price quoted in the "markets of the world. This represents for the aggre- "gate of Russian factories a favor which amounts to 49.5 "million rubles, * * * tantamount to a premium of "17.60 francs per kilo of sugar produced."

Precisely! The artificially high prices amount to a premium on sugar *produced*; a bounty on production, but not a bounty on exportation.

An idea of the results that would follow if the United States were to adopt the conclusions of the Sugar Conference of 1902 may be obtained by applying to American tariff schedules the rules laid down by the Conference. Thus, by the proposed Treaty (*supra*, p. 34), the surtax in excess of $1.15 for 220 pounds is declared to be a bounty, and the contracting parties bind themselves to impose a countervailing duty to an equal amount; by Paragraph 209 of the very Act containing Section 5, the Tariff Act of 1897, refined sugar is subject to an import duty of 1.95 cents per pound, and as there is no excise tax on sugar in the United States, this whole amount is "surtax." On 220 pounds the surtax on American imports of sugar amounts to $4.29, and, according to the Brussels Treaty, *$3.14 thereof is a bounty on domestic sugar which the parties will countervail by additional duties!*

Nor is this all. The definition of bounties adopted in the Treaty applies equally well to other products besides sugar. Taking the cost of sugar production at 2 cents per pound, or $4.40 per 220 pounds, the *ad valorem* duty must not exceed 115/440, or 26.1%, and we must conclude that any commodity produced in the United States *is bounty-fed if the duty on the importation of that commodity from abroad exceeds 26.1%*.

Obviously, the "bounties or grants" of Section 5 are not those contemplated by the Brussels Conference.

POINT FIVE.

The remission of excise taxes on the exportation of sugar is not a bounty or grant on exportation as the terms are used in Section five.

I.

The Board of Classification held that a bounty was paid on the exportation of this sugar, because—

"FIRST.—Upon the exportation of the sugar, the Government remitted or refunded the excise tax due thereon, or otherwise canceled the indebtedness of the sugar manufacturer, so that he was enabled to place his product upon the market free from the burden of either the regular or additional tax."

As the sugar in question is "free sugar," and not subject to any "additional tax," (Stip. 5, p. 9), it is submitted that the manufacturer would have been enabled to place it on the market "free from the burden of the * * * * additional tax," even if the Government had not "remitted or refunded the excise tax due thereon."

The bounty, therefore, cannot be found in the supposed remission of any "additional tax," for none was ever imposed on this sugar.

II.

To include the remission of excise taxes or of customs dues, within the scope of "bounties or grants," as the terms are used in Section five, would be to attribute to Congress an intention to condemn as bounty-paying *an important integral part of the revenue system of the United States.* Since 1794 the United States has had a system of draw-

backs which has been so elaborated that annually millions of dollars in internal revenue taxes and customs dues are refunded to exporters.

Section 15 of this very Act of July 24, 1897, provides "that all articles manufactured in whole or in part of im- "ported materials, or of materials subject to internal "revenue tax and intended for exportation without "being charged with duty and without hav- "ing an internal revenue stamp affixed thereto shall be "manufactured in bonded warehouses, and when ex- "ported directly therefrom shall be exempt from duty "and from the requirements relating to revenue stamps"

Section 30 of the same act provides that "when im- "ported materials on which duties have been paid are "used in the manufacture of articles manufactured or "produced in the United States, there shall be allowed "on the exportation of such articles a drawback equal in "amount to the duties paid on the materials used, less one "per centum of such duties."

Section 3329 of the Revised Statutes provides that "Dis- "tilled spirits upon which all taxes have been paid, "may be exported, with the privilege of drawback."

If the learned Court below was right in spelling out a bounty from the fact that "upon the exportation of the "sugar the Government remitted or otherwise canceled "the indebtedness of the sugar manufacturer, so that he "was enabled to place his product upon the market free "from the burden of either the regular or additional ex- "cise tax," then the United States Government pays a bounty upon the exportation of distilled spirits and of "all articles manufactured in whole or in part of imported "materials, or of materials subject to internal revenue "tax," for the manufacturer thereof is equally with the Russian sugar manufacturer "enabled to place his prod- "uct upon the market free from the burden of the excise "tax."

Congress could not have intended the words "bounty or grant," as used in Section five, to have any such comprehensive scope.

III.

The bounties contemplated by Congress are such artificial aids as tend to lower the natural cost of foreign production, thereby neutralizing the effect of the protective duties estimated with reference to that natural cost.

A drawback or the remission of an excise tax does not tend to lower the natural cost of production. To quote an old authority:

"A drawback is a device resorted to for enabling a commodity affected by taxes to be exported and sold in the foreign market on the same terms as if it had not been taxed at all. It differs in this from a bounty, that the latter enables a commodity to be sold abroad for less than its natural cost; whereas, a drawback enables it to be sold exactly at its natural cost. Drawbacks do not occasion the exportation of a greater quantity of goods than would have been exported had no duty been imposed." Cited in part by Mr Chief Justice Fuller in the Passavant Case (169 U. S., at 23).

IV.

To maintain that a drawback is a bounty is equivalent to saying that an omission to tax is a bounty. The fact that goods are exported free from tax does not make them bounty fed as regards the foreign market. On the contrary unless the excise tax be remitted on export *it becomes an export duty when the goods are sold abroad.*

V.

It will not do to say that, while the mere remission of the excise tax is not a bounty, it becomes a bounty when

taken in connection with the "free sugar" export certificate. The two are utterly and entirely distinct from each other.

The remission of the normal tax is evidenced by a "voucher;" the remission of the additional tax by the "surplus" sugar export certificate (*supra*, pp. 17). The "free sugar" certificate is not a voucher for either tax (*supra*, p. 19), and its market value is exclusive of and entirely uninfluenced by the fact that the normal tax has been remitted on the "free sugar" exported; and this for the very good reason that the purchaser of the certificate must himself pay the normal tax when he issues the "free sugar" on the home market.

Whether the right to issue "free sugar" be vested in the original manufacturer or in the purchaser of the certificate, it is always the right to issue *upon payment of the normal tax* (Stipulation 8, Rec., p. 10). By purchasing the certificate, the purchaser does not acquire any right to the remission of the normal tax; hence it is evident that the fact of remission can play no part in fixing the price of the certificate.

Therefore, if the purchase price of the certificate be a bounty, as claimed by the Government, it must be judged as such regardless of the remission of the excise tax, *and the fact that the tax is remitted on exportation cannot give to the "bounty" the necessary quality of being "conditioned on exportation."*

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POINT SIX.

We invoke the rule laid down by this Court in Hartranft vs. Wiegmann (121 U.S., 608, 616), and in many other cases, that, if the question is one of doubt, the doubt must be resolved in favor of the importer "as "duties are never imposed on the citizen "upon vague or doubtful interpretations."

"Laws imposing duties are never construed beyond the "natural import of the language, and duties are never "imposed upon the citizens upon doubtful interpreta- "tions, for every duty imposes a burden on the public at "large, and is construed strictly, and must be made "out in a clear and determinate manner from the lan- "guage of the statute." Per Mr. Justice Story, in Adams *vs.* Bancroft (3 Sumner, 38).

It may very well be that the American manufacturer needs and should have protection against foreign monopolies, whether they be such as are conferred on a whole nation by the operation of a protective tariff, or on a whole nation as to a portion of its product as in the Russian system, or on a single individual as in the case of a patent right. The conferring of a monopoly, either partial or complete, enhances the price which the consumer may be compelled to pay, and this certainly acts as a detriment to the foreign market by enabling the manufacturer to accept therein a very small profit, or even none at all, on his exported surplus.

Congress, however, has not, in Section 5, indicated any intention to afford protection to the American manufacturer against this kind of competition. It cannot be said that a "country, dependency or colony" does "pay "or bestow, directly or indirectly, a bounty or grant upon

"exportation" when it merely creates a profitable home market for its manufacturers, and issues to the citizen a negotiable certificate which is the documentary evidence of his right to sell in this profitable market. Because the value of this right is liquidated on transfer, the purchase price does not become, thereby, a bounty on exportation, nor is this alleged bounty *paid by a "country, dependency or colony"* when one citizen pays to another the purchase price of this transfer.

To give any such comprehensive and far-reaching effect to Section 5, would be indeed to impose duties on the citizen on exceedingly "vague and doubtful interpretations."

CONCLUSION.

Because the alleged bounty is not conditioned on exportation; because it is not such a bounty as would be included in Section five even if the latter were not limited to bounties on exportation; because, in short, Section five is not to be extended to distortion in order to cover all possible benefits conferred on manufacturers by the operation of wise and beneficent laws; therefore, it is respectfully submitted that no bounty or grant upon the exportation of these sugars was paid by the Russian Government, within the scope of Section five of the Tariff Act of 1897, and no additional duty should have been levied thereon upon importation into the United States.

WASHINGTON, October Term, 1902.

ERNEST A. BIGELOW,
Counsel for Petitioner.

No. 318.

Supp. Brf. of Bigelow for Petitioner

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THE RUSSIAN SUGAR BOUNTY CASE.

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ROBERT E. DOWNS,

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vs.

THE UNITED STATES.

SUPPLEMENTARY BRIEF ON BEHALF OF PETITIONER.

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31653

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ROBERT E. DOWNS,
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SUPPLEMENTARY BRIEF ON BEHALF OF PETITIONER.

Answering a question asked on the argument:

The purchase price of the "free sugar export certificate," like the purchase price of the "Transfer," is measured by the difference between the amount the exporter will obtain for his sugar in the foreign market, and the *net* amount (*i. e.*, *exclusive*, not inclusive, of excise tax), he would have obtained at home. Thus, if the gross market price of sugar at home is 6 cents per pound, the normal excise 2½ cents, and the foreign price, 2 cents, then the price of the Certificate or of the Transfer will be 1½ cents, equal to the difference between 3½ cents, the *net* home price, and 2 cents, the foreign price.

The argument on this point was founded on the state of the American Consul (Rec., p. 62; Princ. Brief, p. 13), wherein he gives an example showing that if the gross market price of sugar at home be Rs. 4.25, and the net price be Rs. 2.50 (*i. e.*, R. 4.25 less the normal excise of R. 1.75), and the foreign price be R. 1.25, then the price of the Right of Issue (whether it be represented by Transfer or Export Certificate) would be R. 1.25 (*i. e.*, R. 2.50 less R. 1.25).

It is plain that the Moscow manufacturer could not afford to pay for this Right of Issue the difference between the foreign price and the *gross* home price (*i. e.*, the cost to the consumer), *for then the transaction would cost him more than if he had sold his own surplus sugar at home* and paid the additional tax, which is precisely what he is trying to avoid. It must be remembered that the Moscow manufacturer acquires by the purchase no right to a remission of any tax; the Transfer, or the Certificate, simply enables him to issue that amount of sugar *upon payment of the normal tax* (Stipulation 8, Rec., p. 10, Princ. Brief, p. 46). If, therefore, he should pay for the Transfer or Certificate the difference between the foreign price of sugar and the *gross* price (*i. e.*, including the tax) at home, he would obviously pay the normal tax *twice*, once to the Government and once to the exporter, and in addition the equivalent of the profits foregone by the exporter. Plainly, then, the Moscow manufacturer, having to pay the normal tax to the Government, will only pay to the exporter a sum which will be not as large as the additional tax, *i. e.*, the price for the Right of Issue must be less than R. 1.75, and that is precisely what the example given by the American Consul shows.

This is very clearly stated by his Honor, Judge Morris, in his opinion in this case (Rec., p. 74): "Manufacturers "will pay *nearly as much as the additional excise tax* for

"the privilege of transferring their surplus sugar to the "free sugar which they are allowed to sell at home."

To put the matter in another way: The manufacturer pays only for what he gets, viz., a right to issue sugar upon payment of the tax; and the price is regulated accordingly. The tax is levied on the Right of Issue, and not on the sugar; when the Right is transferred, the liability to tax goes with it.

SOME MISSTATEMENTS OF FACT IN THE GOVERNMENT BRIEF.

1. Page 4: "A foreign view of the Russian arrange- "ment, holding it to constitute *a bounty on exportation*, "is given by the delegate of Austria-Hungary," &c.

On the contrary, the Austrian delegate proved that the Russian system ensured to the manufacturer a price for his sugar on the home market higher by R. 1.50 per pood than "the price quoted on the markets of the world, "* * * tantamount to a premium of 17.60 francs per "kilo of sugar *produced*." "This measure carries *exactly* "*the same effect* as the export bounty given by the other "States" (Rep. of Conf., p. 60).

A bounty *on production*, deleterious to the foreign market when the bounty fed sugar is exported; and not, as stated in the Government brief, a "bounty on exporta- "tion."

2. Page 5: "Sugar from neither of these reserves "('indivertible' and 'surplus' reserve) may be put on "the home market *except* on payment of the double ex- "cise tax, which is practically prohibitive."

Sugar from the "indivertible reserve" cannot be put on the home market upon payment of the additional tax; it

can be placed on the home market *only by order of the Ministry*, to break the price of sugar, *and then at the normal tax* (Reg. Secs., 32, 33, Rec. p. 54; Law. Sec. 7, Rec., p. 41).

3. Page 6: "Was there not some purpose in the antag- "onistic purposes of stimulating production and control- "ling it, to achieve the first purpose, not by frank en- "couragement of exportation free from tax, but by the "veiled method of a reserve production, *ostensibly* held "against domestic needs and price disturbances but *really* "*a supply for exportation*, which is benefited by a pre- "mium?"

We may answer counsel for the Government by observing that the "reserve" production is not only "ostensibly" but *actually* held against "domestic needs and price "disturbances," for as shown above, the "indivertible reserve," which is the only one set apart against price disturbances (Law Sec. 1, *b*, *c*.; Rec. p. 41), cannot be withdrawn from the mill *except for that purpose*, and therefore cannot be "really a supply for exportation."

4. A much more serious misstatement, however, is that on page 19, and again on page 26, that Russia *admitted* the compulsory character of its sugar exportation in Clause 6, in the annex to the *proces verbal* (Rep. of Conf., p. 80).

The annex was, as was later admitted by the Assistant Attorney General on the argument, simply the proposition of "several delegates * * * with a view of "diminishing the tension existing between the divergent "opinions." Who those "several delegates" were we are not informed, but we may be very sure that the Russian delegate was not among them, in view of his consistent refusal to be a party to any discussion of the internal régime of his country (Reg., pp. 61, 78, &c.).

SOME FALLACIES IN THE GOVERNMENT BRIEF.

1. On page 26 it is stated that the manufacturer "would not transfer to the next campaign's account (a "fallacy reiterated by counsel), because clearly this "would cut down that campaign's production just so "much. (This is evident from careful analysis of Regu- "lation 19, Rec., p. 50)."

As the Government founds on this misstatement its claim that the Russian law forces exportation, counsel may be permitted to cite in full the note to Regulation 19 (Rec., p. 51): "The surplus carried over from the previous "campaign *without* being transferred to the coming pro- "duction is not included in the production account in "making the accounts for the several mills, as set forth "in Sections 5 to 7" (Rec., p. 43 *et seq.*).

Sections 5 and 7, referred to, provide that in the various computations of the total product of the mill shall always be included the "surplus sugar carried over "from the preceding campaign and canceled off the sur- "plus account." Upon the aggregate production, so estimated, "the ministry of finance determines what "percentage ratio the surplus shall bear to the output," &c. (Reg., Secs. 11, 12; Rec., p. 48).

As to the extent to which Regulation 19 is availed of reference may be made to page 71 of the report of the Conference, where the Russian delegate states that 3,600,000 poods were thus carried over in 1900, as against about 5,000,000 poods exported. The Regulation cannot be deemed an "illusory" device when in that year nearly 75 per cent. as much sugar was transferred to the new campaign as was exported.

It is evident that "careful analysis of Regulation 19"

produces a result exactly contrary to that claimed by the Government.

2. Again, on page 26, "But the man who transfers free "sugar has only reserve sugar in exchange; and I submit "that it is conclusively shown he *must* export and *does* "export—manifestly *always* exports."

Even if this were accurate, which it is not, total export from Russia would not thereby be increased. What the transferor exports, the transferee *withdraws from export* (if export was his original intention) *and that is the very purpose of the transaction.*

Since total exportation is not increased it cannot be said that the "Russian scheme" is to induce export by this "device."

3. Again, on this same page 26: "It may be that there "was some confusion in the tribunals below as to the "Government certificate or voucher showing export "merely and serving as the foundation of the remission "of tax, and the certificate of transfer between mills from "reserve to free sugar. Both carry a benefit—the first "freedom from tax liability, the second a domestic mar-"ket right salable on 'change. *Together they equal in value "the highly protected, doubly and trebly protected, Gov-"ernment sugar price, as counsel shows* (Brief, p. "22)." (!!!)

The "Government certificate or voucher showing ex-"portation merely and serving as the foundation of the "remission of the tax," and carrying the benefit of "free-"dom from tax liability," can only be the "surplus export "certificate," for as shown in the principal brief, it is only "surplus" certificates which vouch the remission of any tax, "free" certificates having a very different function (Princ. Brief, pp. 17, 19).

Therefore, the proposition of the learned Assistant Attorney-General is this: The surplus export certificate, plus the certificate of transfer between mills, "*together* "they equal in value the highly protected, doubly and "trebly protected Government sugar price as counsel "shows." A proposition manifestly absurd.

(1) The price of the "Transfer" *plus the price received for the sugar on the foreign market*, or (2), the price of the "free sugar certificate" *plus the price received for the sugar abroad*—either equals the "highly protected, etc., "Government sugar price," less, of course, the excise tax (Brief, pp. 13, 21, 22). The "surplus" export certificate, however, is utterly valueless and plays no part in this computation.

Referring to counsel's endeavor to lay clearly before this Court the distinctions between these various documents and vouchers, the learned Assistant Attorney-General says (p. 27), that "no confusion can be imported into "the question on this score." "Importation" is hardly necessary, in view of the foregoing.

4. As to the fallacy of the argument on page 28, this Court will need no enlightenment. In adopting the phrase used by the Circuit Court of Appeals, counsel was, of course, endeavoring to bring out more forcibly the point that the benefit to the manufacturer was not conditioned on exportation. Whether this benefit be in the shape of the purchase price of his marketable certificate or in the shape of the purchase price of his marketable free sugar, it is none the less in the "field of market price however fixed."

5. As to the circular of the Treasury Department, referred to on page 24, it is significant only as showing the extraordinarily rapid growth of an erroneous theory, for in a letter to the Collector of the Port of New York (T. D.

19, 321). Assistant Secretary of the Treasury Howells states that "the non collection of an internal revenue tax by the "exporting country does *not* constitute an export bounty "within the contemplation of Section five."

6. No importance can be given to the use of the word "facilitate" in the caption of Regulations 39 and 40 (Rec., p. 57). The Board of Classification lays stress on this word as showing a purpose to induce exportation (Rec., p. 30). The Treasury Department, apparently, considered it as conclusively proving that Russia intended a bounty on export. Thus, in the statement issuing from the Department (Cong. Rec., Feb. 26, 1901, pp. 3335; annexed to the brief of counsel for the Treasury Department before the Board, and credited by him to the Secretary of the Treasury) appears this remarkable process of reasoning:

"6. While it could not be directly inferred from the "wording of the statute itself that the Government, in "arranging its system of sugar taxation, contemplated "an encouragement to export, this object is clearly "expressed in the instructions issued in pursuance of the "statute by the Minister of Finance, wherein this "arrangement is expressly declared to be made 'in order "to facilitate the exportation of the surpluses to foreign "countries.' (Title D., Art. II., Secs. 39 and 40.) That "it results in a bonus from some source to those who "export sugar there can be no doubt."

In reply to this we may call attention to the Act of June 9, 1874 (18 St. at L., 64), entitled "An Act to "*facilitate* the exportation of distilled spirits and amend-"atory of the acts in relation thereto."

The word is properly used in both captions and is admirably chosen. When the Russian manufacturer and the

American distiller have decided to export, the respective laws facilitate the execution of their intention, just as the buoys in a harbor facilitate export, and the use of ether facilitates an operation in surgery.

The Board of Classification and the Treasury Department appear to have overlooked the distinction between facilitating and inducing.

7. The extraordinary *non sequitur* on page 7 of the Government brief is worthy of special attention.

Section nine of the Law (Rec., p. 41) provides that "upon the exportation from the factories of the excess of "sugar, the same is exempted from the excise and additional tax in full measure"; and the Note (Rec., p. 42) authorizes the Ministry to *suspend this remission of excise* "in case of such a rise of the prices of sugar in the "foreign European markets as might become an encouragement of a considerable over production by sugar "factories in the Empire."

Referring to this Note, the Government brief says "the "deliberate export use of the device is emphasized by this "very check upon it."

You check; ergo you recognize; ergo you encourage. *Q. E. D.!*

8. The learned Assistant Attorney-General (Brief, pp. 20, 21) finds in the "resistant and even secretive attitude "of Russia," evidence that the Russian delegates were seeking to avoid the effect of the Russian system; that "throughout the Brussels conference the Russian dele"gates, either by brevity and silence, or else by counter"assertion, manifestly protested too much."

What the Russian (and also the French) delegate did may best be expressed in the words of the Government brief (p. 11): "He shows concern at a discussion of cus-

"toms duties and differentials which might interfere "with sovereign rights 'under the pretense that (the "particular) tariff is too high and favors exportation'" (see also Rep. of Conf., pp. 20, 45, 61, 68, 69, 78).

Is it impertinent to ask what would have been the attitude of a United States delegate under such circumstances?

AS TO THE BRUSSELS SUGAR CONFERENCE OF 1898.

Such was the scope of the conference, covering, as it did, the whole field of government benefits, direct and indirect, on production or on exportation, principal or collateral, by protective tariffs, drawbacks, etc., etc., that the results reached by the delegates are of no more effect here than are the newspaper comments, cited in full in the Government brief.

The Brussels conference and the framers of Section 5 did not have the same objects in view, as is apparent from an examination of the quotations in the Government brief.

Thus, on page 14, quoting the Austrian delegate:

"This situation gives to the manufacturer a certainty "that he may demand of the consumer a price obtained in "fact, a price, shall we say, which not only exceeds that "on the market of the world by the whole of the simple "tax, but which reaches in addition almost the second "payment of the tax. * * * Thus, an actual advan-"tage * * * is gained in consequence: * * * This "measure carries exactly the same effect as the export "bounty given by the other States."

This was the complaint againt Russia, that the artificial

limitation of the market insured a profitable price for the product to the manufacturer, so that he was enabled to accept a less price on his exported surplus.

The Government brief omits an important part of the above statement, which we take the liberty of inserting. On page 15 of the Government brief the first asterisks represent the following significant summary by the Austrian delegate (Rep. Conf., p. 69):

"To sum up, there are annually sold in Russia at least "33,000,000 poods at 2.14 cents per pound more than the "price quoted on the markets of the world. This repre- "sents for the aggregate of Russian factories a favor "which amounts to 49.5 million rubles; that is to say, "$25,500,000. Taking an output of 46.1 million poods of "the current year for a basis, the advantages indicated "are tantamount to a premium of 17.60 francs per 100 "kilos of sugar produced."

We may compare this with President Havemeyer's statement in his annual report to the stockholders of the American Sugar Refining Company for the current year:

"It would seem that with an overflowing Federal "treasury there had disappeared any reason for con- "tinuing the existing high tariff upon raw sugar. It "constitutes a charge upon the consumption of nearly 2 "cents a pound.

"This represents on an annual consumption of 2,360,000 "tons, $85,000,000 a year. Of this, however, only "1,330,000 tons are imported, yielding custom revenues of "$49,000,000. The balance of $36,000,000 goes into pock- "ets of planters of the following States, as follows:

	" TONS.	VALUE.
" Louisiana planters	350,000	$12,600,000
" Domestic Beet planters	150,000	5,400,000
" Hawaii planters	350,000	12,600,000
" Puerto Rico planters	150,000	5,400,000 "

It is submitted that Mr. Havemeyer is of equal authority with the Austrian delegate in discussing the indirect benefits conferred by a protective tariff.

Again, on page 16 of the Government brief appears this quotation from the "very lucid statement" of the Netherlands delegate:

"The Russian system puts a limit by virtue of governmental action to the production for home consumption; that is to say, to the supply for the home market. "Now, if one wishes to limit the supply, it is natural "that the barrier should be raised to stop the influx of "foreign sugars. The surtax is therefore a necessary "adjunct to the limitation of home consumption; but "from that limitation arise the dangers for producers "from other countries. The supply for the home market "being limited, the selling price on that market is very "remunerative. * * * Is that an export bounty? "Not within the technical meaning of the word; but it is "an inducement, a special financial interest, which "operates like a bounty."

Here again we find the gist of the complaint against Russia: that, by artificially limiting the supply on the home market, prices are enhanced, enabling export to be made at little or no profit, or even at a loss.

The portion of the definition of bounty which was intended to apply to the Russian system is stated by the President of the Conference to be that relating to surtaxes, *i. e.*, protective duties. On page 76 of the Report of the Conference occurs this passage:

"The president of the conference believes that the "passage of the definition of bounty which relates to "surtaxes can be applied to the system established by

"Russian legislation. The passage indeed, reads: 'Ad-
"vantages similar to those resulting from bounties can
"be derived from the disproportion between the rates of
"customs duties and that of consumption duties (sur-
"taxes), especially in places where public authorities en-
"force, suggest, or encourage combinations among sugar
"producers.' It is obvious that Russian legislation in-
"cites such combinations by limiting the supply for home
"consumption. It may be asserted that the surtax, con-
"sidered by itself, exercises but secondary influence. It
"is a combination of surtax and limitation of supply that
"affords the cause for the enhancement of prices. Now,
"this enhancement reaches a high figure. The sugar,
"after deducting the amount of the duty, *costs twice as*
"*much in Russia as on the London markets.*"

It is conclusively shown by these extracts that the Brussels Conference of 1898 regarded the Russian system as effecting the indirect payment of a bounty by means of the artificially enhanced prices on the home market, and that these high prices enabled the manufacturer to accept a lower price for his exported surplus.

AS TO THE BRUSSELS CONFERENCE OF 1902.

The Treaty adopted by the various powers provided that a surtax in excess of $1.15 per 220 pounds is a bounty, and will be countervailed (Princ. Brief, pp. 34, 42). We may at any time expect this penalty to be imposed on our own exports of sugar, which in 1900 amounted to about 8,000 tons, and may be expected to increase. According to the Treaty, we pay a bounty of nearly $29 per ton, a total for the sugar exported of $232,000.

Plainly, then, Congress did not contemplate the same "bounties" as those discussed by the Brussels Conferences, and this brings us back to the original question as to the meaning of the phrase, "to pay or bestow a bounty or grant on exportation," as used in Section 5.

THE REAL QUESTION.

We may be pardoned for reiterating that Congress could not have intended to penalize in one section of an act the very system established in the rest of the act.

The Government brief recognizes the analogy between the Russian system and the American system, and seeks to evade the consequences of this analogy by saying (p. 30) that "we are not called upon to falter before academic consistency," and that, "we are honestly able to urge "that when Russia imposes excessive import duties and "surtaxes on sugar, creating an exclusive domestic "market and sustaining a high price therein, and really "fostering production while professing to limit it, puts a "premium on exportation *so as to injure our own scheme* "*of protection*, we may scrutinize, detect, and weight the "operation at this end, and thus maintain our self-pro-

"tection." And furthermore (p. 29), that this government would have "no very conclusive ground of objec-"tion" if other countries should do the same by us.

It is submitted that this begs the question. The question is not what we *can* do, but what we *have* done.

We do not deny that Congress, in the exercise of our sovereign rights as a Nation, might exclude all foreign products from our markets and give no better reason than that we did not want them in the country; but the question here is whether Congress has sufficiently indicated *in Section 5* any such intention. In other words, the question is what was contemplated by Congress when it used the words: "Pay or bestow a bounty or grant on exportation."

What, now, is the test proposed by the learned Assistant Attorney General for the application of the section? I quote from his brief (p. 30):

"We do not penalize as 'bounties' the enhanced "domestic prices due to artificial limitations of the "home market by a protective tariff and its legitimate "incidents, but when an extreme extension of the pro-"tective idea brings deleterious results to our home "interests all the way from Russia, we do properly pen-"alize the concrete expression of these results as an "indirect bounty. And if some possible extension of "our protection and export provisions so operated "abroad, I imagine we should have no more satisfactory "answer to offer than Russia has in this case."

That, then, is the test proposed by the government. The protective tariff is not a "bounty" within the scope of the section until it becomes deleterious to our markets! It is the *extent* of the artificial limitation of the mar-

ket by protective tariff that determines whether it is a "bounty" within the scope of the section!

The answer to this extraordinary proposition is that that is not the way to construe a statute; that if you do not penalize as "bounties" the enhanced prices due to artificial limitations of the home market *until* they become deleterious to our own market, then you cannot penalize them at all, under Section 5; for a "bounty" is to be judged according to its nature, not to its size. A "bounty" is a "bounty," whether it is large or small, deleterious or harmless, and the word as used in the section must be so interpreted. It cannot be given an elastic scope, applying or not applying, according to the size of the artificial aid; that is not the way customs acts are construed.

CONCLUSION.

Regardless, therefore, of the Brussels Conference, regardless of the various newspaper items quoted in the Government brief, regardless of the views of governments hostile to Russia, that the Russian system "has the same effect" or "operates precisely like," &c., &c., the direct export bounties granted by other States, the question here is: Did Congress, when it used the words "pay or bestow a bounty or grant upon exportation," *intend* to include therein the artificial advantages insured to manufacturers by the operation of a protective tariff? It is not denied that the enhanced prices due to a protective tariff are indirect bounties, but the question is whether Congress intended to include them within the scope of the words "bounty or grant" used in the statute; and it is submitted that Congress could have had no such intention.

It is inconceivable that Congress should have had the audacity to condemn as bounty paying on the part of other nations the very system which has been the economic policy of this nation for nearly a hundred years; to establish in the Dingley Act a complete and extensive system of protective duties and entitle the act "An Act to Encourage the Industries of the United States," and in one of the sections of that act to declare that, if other nations shall adopt the very same system, it shall be deemed bounty paying on their part, and penalized accordingly. Such hypocrisy should not be attributed to Congress.

By limiting the words "bounty or grant on exportation" to payments out of the public treasury, in cash or its equivalent, conditioned on exportation, and tending to lower the natural cost of foreign production, the section

is given its full force and effect—a purpose clear, definite, and in harmony with the rest of the act. By extending the section to cover all possible benefits conferred by the operation of wise and beneficent laws, it is given a scope co-extensive with the powers of government itself.

Consider the effect of such an interpretation as the latter: The Secretary of the Treasury is to estimate, and countervail by additional duties, the value to the exporter of the high prices which he can obtain on his protected home market for the balance of his product and this not alone on sugar, but on all articles which in their home market are protected by a tariff or subjected to excise taxes which are remitted on exportation. Such would be the inevitable result of giving to Section 5 any such extreme application as is hinted at on pages 25, 30, of the Government brief.

Congress could not have intended to impose on the Secretary of the Treasury this task, impossible of fulfillment.

The Russian delegate's question may be not out of place here:

"May I be permitted to ask whether the intention in "directing the discussion to the tariff system of certain "countries is a platonic and academic one? Has the "possibility been contemplated of applying, to countries "which in the free use of their sovereign rights have "fixed their customs tariffs in accordance with their "national interests, a differential duty under the pretense "that their tariff is too high and favors exportation? "Would it be indiscreet to ask how this differential duty "is to be computed? On what basis shall it be estab-"lished?" (Rep. Conf., p. 50).

We do not insist upon this analogy between the Russian system and the American system for the purpose, as in-

timated in the Government brief (p. 29), of asking whether we have any *right* to protest against the Russian adoption and extension of our methods; that question is not involved here. Our reason for pointing out the analogy, the sole reason for dwelling upon it at such length, is to prove to this Honorable Court that by condemning as bounty paying the efforts of the Russian government to protect its manufacturers, this Court will be, in effect, indicting the American protective tariff system, and that the words "bounty or grant," as used in Section 5, could not have been intended to have any such comprehensive scope.

We do not claim that this Court should be asked to consider the effect of an exact application of an act of Congress, but we do claim that when an act is capable of two constructions, one limited and in harmony with the traditional policy of this country, the other an audacious and hypocritical attempt to penalize as bounty paying on the part of other nations the very system established here, then may it please the Court, we do claim that the Court can and should consider the consequences of the two constructions in order to determine which was intended by Congress.

Respectfully submitted,

ERNEST A. BIGELOW,
Petitioner's Counsel.

WASHINGTON, October Term, 1902.

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In the Supreme Court of the United States.

OCTOBER TERM, 1901.

ROBERT E. DOWNS, PETITIONER,
v.
THE UNITED STATES.
No. 666.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT.

STATEMENT ON BEHALF OF THE UNITED STATES.

This case involves the construction of section 5 of the tariff act of 1897, imposing countervailing duties on importations of merchandise from countries which directly or indirectly pay a bounty on the exportation thereof. The application of this law to imports of sugar from Russia is directly involved under the Russian sugar law, and other foreign laws and plans of the same general nature are indirectly, but in principle, brought under consideration.

I do not, of course, concede any part of the argument on the merits made in this application, but I do agree that the questions raised are of especial gravity. They are (1) the proper delimitation of function or jurisdiction between the Secretary of the Treasury and the customs tribunals in determining the fact of bounty or no bounty; (2) the nature and status of the Russian

arrangement both as a fact to be established before the court, and, being so established, as matter of law to be construed by the court respecting its operation and effect; and (3) the construction and application under the conditions shown of section 5 of the current tariff act.

The importance of the issue is conceded, also, because it embraces our diplomatic and trade relations with a friendly power, and touches our relations with other friendly powers maintaining commercial schemes of a similar nature.

For these reasons I submit, without argument, the correctness of the decision of the circuit court of appeals holding that, as matter of fact and law, the laws of Russia bestow a bounty or grant upon the exportation of sugar; not desiring to resist the application, but to commit it to the court's judgment and determination without further discussion or advocacy.

The decision of the Board of General Appraisers and the dissenting view will be found as G. A. 4912 in 4 Treasury Decisions, page 405; see also record, page 23; the decision of the circuit court, record, page 73, and the decision of the circuit court of appeals in 113 Fed. Rep., 144. The case of Hills Brothers, which relates to the Dutch bounty under the same section of the act of 1897, is reported in 107 Fed. Rep., page 107.

JOHN K. RICHARDS,
Solicitor-General.

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No. 318.

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JAMES H. McKENNEY,
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Brf. of Atty. Gen'l (Mayr) for U.

Filed Oct. 25, 1902.

In the Supreme Court of the United States.

OCTOBER TERM, 1902.

ROBERT E. DOWNS, PETITIONER,
v.
THE UNITED STATES. } No. 318.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT.

BRIEF FOR THE UNITED STATES.

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No. 318.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT.

BRIEF FOR THE UNITED STATES.

This case raises the single question whether a bounty or grant was bestowed by the laws of Russia on the exportation of the sugar involved. The point of jurisdiction which might be urged in favor of exclusive executive authority to determine the question appears to have been definitely waived by Secretary Gage's voluntary submission to the judicial determination of the Board of General Appraisers and the courts. Besides, this court reserves authority to review an administrative determination explicitly made final where the same has proceeded upon a wrong principle contrary to law; and the present question may be said to be one of law, since it does not so much refer to the existence of a foreign law as a fact, as to its interpretation and bearing upon our own laws, so that if

a final executive determination had been made in the present case, it might at least have been challenged in this court (whether successfully or not), upon assumption of jurisdiction below despite executive ruling, and grant of *certiorari* here.

The act under which the question arises provides:

> That whenever any country, dependency, or colony shall pay or bestow, directly or indirectly, any bounty or grant upon the exportation of any article or merchandise from such country, dependency, or colony, and such article or merchandise is dutiable under the provisions of this act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The net amount of all such bounties or grants shall be from time to time ascertained, determined, and declared by the Secretary of the Treasury, who shall make all needful regulations for the identification of such articles and merchandise and for the assessment and collection of such additional duties. (Sec. 5, act of July 24, 1897.)

The only other case arising under this law is that of *Hills* v. *United States* (99 Fed. Rep., 425), in which the circuit court determined respecting a Dutch arrangement that the bounty was upon production and not upon exportation of the sugar, directly or indirectly. But since the Dutch law allowed a remission of the excise tax on exportation and provided for the payment to manufacturer or refiner of the credit difference between his excise and bounty account, the appellate court (107 Fed. Rep., 107) held that the excise tax "being thus eliminated from the debit side of the account, the manufacturer or refiner receives from the Government the excess of credit over debit, which is the precise amount of the bounty. * * * The other provisions of the law have the practical effect of making it, from the standpoint of the other countries, a bounty on exportation." The practical effect of the Dutch law is that "those who export their sugar may keep this bounty; those who do not export it must forthwith return it to the government." In other words, this case shows typically the operation on exports of bounties on production, for Dutch manufacturers have this premium advantage, when they export wholly or largely, that, receiving the production bounty in any case, their excise taxes, although at a higher rate per unit than the bounty, are wholly or mostly remitted, and the net result is a grant on the exportation.

ARGUMENT.

The Russian sugar law and regulations and various explanations of their working and effect are given in

the record—the law and governmental instructions or regulations thereon at pages 40–58; the facts about production, taxes, prices, etc., with explanatory statements and illustrations in the stipulation (p. 8), in the report of the American consul (pp. 12–23), and in the opinion of the board of general appraisers (p. 24, *et seq.*) A foreign view of the Russian arrangement, holding it to constitute a bounty on exportation, is given by the delegate of Austria-Hungary at the Brussels Conference of 1898 (pp. 57–61 of Senate Document, inserted at Rec., p. 69). The view of Russia, that no bounty is paid on exported sugar, is given by its delegate at that conference (pp. 46–50 of Senate Document), and again in reply to the Austrian presentation (pp. 70–73). The dissenting opinion of General Appraiser Tichenor takes the Russian view that an export bounty is not bestowed (Rec., pp. 34–40).

Attempting, however, an independent summary of the law and regulations (pp. 40–58), it appears that the Russian Government determines the total quantity of domestic sugar needed for home consumption, fixes the maximum price, and thereupon controls production and prices by—

(*a*) Allowing to each factory a certain normal and fixed amount of production (pp. 40–41, par. 3); and

(*b*) Such additional amount as under the proportion indicated in (*c*) will bring the total production of all factories up to the limit of quantity fixed for home consumption (p. 41, pars. 2, 3, 4). These two items

constitute "free sugar," salable in the home market on payment of the normal excise tax.

(*c*) By providing that the excess of production over the amount fixed for home consumption, which excess is proportioned or distributed among the factories in the ratio of their respective production over the normal and fixed amount allowed to each, shall be divided into a moderate percentage of "obligatory" or "indivertible" reserve and a balance of "free reserve" (pp. 41–42, pars. 2, 4, 5, 6).

Sugar from neither of these reserves may be put on the home market except on payment of the double excise tax, which is practically prohibitive.

(*d*) By permitting the "obligatory reserve" sugar to be sold at home, or the "free reserve" sugar (if necessary), on a rise of prices beyond the maximum fixed, upon payment of the normal excise only (p. 41, par. 7).

(*e*) By exempting sugar exported from all excise taxes (p. 41, par. 9).

(See also secs. 12, 13, 14 of "Instructions," pp. 48–49; last paragraph of sec. 18, and sec. 20, with note 1, pp. 50–51; secs. 32, 33, p. 54.)

Through this last provision, (*e*) skillfully applied to sugar which preceding paragraphs profess to lock up in the factories until the double excise is paid, Russia manifestly encourages exportation. For no manufacturer would export free sugar out of a most profitable market, and plainly the function and use of the free reserve is exportation, to foster which trade is ordinarily a legitimate national purpose. But is there not a

premium? In this scheme, asserted to relate only to production and home consumption, would not free sugar and obligatory reserve have enabled the Government to control fully domestic use and price?

Was there not some purpose, in the antagonistic purposes of stimulating production and controlling it, to achieve the first purpose, not by frank encouragement of exportation free from tax, but by the veiled method of a reserve production, ostensibly held against domestic needs and price disturbances, but really a supply for exportation, which is benefited by a premium?

The Russian Government desires to maintain prices and therefore limits the output on the domestic market. But that Government also desires to stimulate production, and for this purpose puts a premium on exportation. It is neither necessary nor proper to suggest a covert purpose to bestow a bounty seeking a covert method; but the Russian attitude, as will be shown below, offers some excuse for such a suggestion. It is enough to establish that the premium on exportation, the indirect bounty, is the necessary effect and result of the scheme.

Further pursuing the Russian law, the grant as a governmental allowance is shown by the complete control of the Government over it. It is not something launched and permitted to take its course, which might relieve the Government of any charge or responsibility for casual or indirect results—of the charge, at least, of intention to bring about a consequence not clearly

visible at the start—but the Government reserves the power to suspend the remission of excise in order to guard against the effect of such a rise of prices in the rest of Europe as might cause an abnormal domestic overproduction (p. 42, note at top of page). In other words, the deliberate export use of the device is emphasized by this very check upon it.

How does the bounty or premium appear? In the first place, free sugar is never really exported because of its valuable privilege of sale in the Russian market, as against the absence of direct profit, or even actual loss (which is more than offset, however, indirectly) in case of export sales. Moreover, if free sugar should be sold for export, the same fact appears in effect (that free sugar is never really exported), because "the excise office debits the exported quantity of sugar to the free surplus of the mill, if such there be, and increases by a like quantity the allowance of free sugar" (p. 55, note to sec. 37). How the Government returns, or rather remits, the regular and additional tax (which have been secured only, not paid), after exportation has been duly established under official supervision, is shown in section 38, paragraphs 1–5 (pp. 55–57).

There is one more highly significant feature in the arrangement—the cession or transfer of free sugar from one mill to another in order to facilitate the exportation of the surplus (free reserve) to foreign countries (p. 57, II, secs. 39 *et seq.*). The obvious working is as follows: A manufacturer at or near one of the ports of

export, who is thus free or substantially so from the cost of inland transportation to tidewater, but subject to heavy rates for inland hauls—who can, therefore, export more profitably than a manufacturer in the interior (access to the domestic market being practically essential to the latter)—assigns to the inland producer a certain quantity of free sugar, and suffers a corresponding transfer from his own free-sugar account to surplus or free reserve.

This assignment or transfer carries a consideration to the producer who cedes his home market right, and constitutes the concrete evidence of the premium or indirect bounty on exportation. An illustration of such a transaction, giving the value of a transfer, is shown in Consul Heenan's report (p. 17, and again at pp. 62–63). It should be noted that this report states that—

> The Russian Government, in order to regulate the sugar trade and to give the industry a solid basis, prescribes that a certain quantity of the surplus of all sugar mills or factories must be exported; whether this sugar is exported direct from each factory, or if one factory exports its whole production, is immaterial to the Government.

THE BRUSSELS SUGAR CONFERENCE OF 1898.

It will be helpful to epitomize as part of the argument the transactions of the Brussels Sugar Conference of 1898. These appear separately in a Senate Document, beginning at page 69 of the record.

I premise this abstract by respectfully submitting

that we are not concerned with this foreign law merely as an existent fact appearing from authentic books or reports, or from opinions of doctors, showing that the law clearly means so and so. We are, of course, dealing with it as a matter of law, with its legal meaning and effect, to be weighed and construed judicially by this tribunal in order to apply it correctly to the solution of our own law. Nevertheless, in this subject, technical and economic as well as legal, the views of distinguished foreign experts on the industry involved, and on the foreign export bounty arrangements which are current, are entitled to very great weight.

In the British report (pp. 6–10, Sen. Doc.) it appears that there was general agreement that export bounties ought to be abolished, except on the part of France and Russia. France indicated her willingness to suppress the direct bounty under one of her laws, reserving the indirect bounty under another. Russia states her understanding that her internal law is not to be discussed. The Austro-Hungarian statement (see in more detail *infra*) is noted, viz, that the real effect of the Russian system is a bounty on exportation, and the report reiterates the Russian unwillingness to discuss her internal legislation and her claim that her system does not amount to a bounty on exportation. "Russia declines even to discuss whether her system amounts to a bounty or not."

The address of the president of the conference (p. 14, Senate Document) mentions the economic evils of bounties, and the grievous condition caused by their

disturbance of outside markets. The Russian delegate (p. 15) makes a cautious reservation as to the scope of the discussion. The question of "refining yield and surtaxes"[a] (import duties) is regarded as important (p. 19), as without agreement thereon "the indirect bounty which is granted to the production of raw sugar and which all have interest in doing away with would not be long in reappearing in some other form."

The Russian delegate interposes another reservation at this point (p. 20) on the ground that Russian customs duties are outside of the jurisdiction of the conference. In the President's view, if other delegates formulated reservations as absolute the labors of the conference would be singularly reduced. The Russian delegate (p. 21) explains his reservation and says that Russia pays no export bounties, but "bears the counter effect." The Russian delegate (p. 26) expresses his cordial concurrence in the justice and equity of the French view, that no change should be permitted to disturb existing contracts in which consuming as well as producing countries are interested. France frankly admitted her indirect bounties (pp. 27–32) and offered to sacrifice her direct bounties.

The British delegate (p. 36) thinks the conference should determine whether the bounties granted to production are really applied for the purpose of export bounties. The delegate of Austria-Hungary (p. 37) is convinced that it is feasible to apply export bounties

[a] It will be observed that on page 74, Senate Document, "surtax" is more precisely defined as the "difference between the rate of import duty on foreign sugar and that of excise tax on domestic sugar."

to the sugar industry in different ways; that such is the practice, and that the particular form of such advantages plays a very secondary part. The delegate of Germany pointed to the same view (p. 38), viz:

> There remains open the question of knowing whether there are still other means of fostering by means of legislation, as, for example, in Russia, the exportation of sugar and working the same effect as by export bounties.

The Russian delegate reserves the right (p. 40) to reply to the German and Austrian statements. The Russian delegate states (pp. 46–50) the Russian position that Russia does not pay bounty to exported sugar and only returns the collected tax. "Thus our sugar can not profit by a disguised bounty—a point which besides has been acknowledged by the sugar conference held at London in 1888" (p. 48). He shows concern at a discussion of customs duties and differentials which might interfere with sovereign rights "under the pretense that [the particular] tariff is too high and favors exportation" (p. 50).

On page 51 appears the proposal submitted to the conference for the definition of export bounties which should be abolished. It will be noted that this definition was restated on page 61 and accepted unqualifiedly by all the delegations at the conference except France and Russia, who accepted it under their previous reservations. The definition is as follows:

> The conference, while reserving the question of mitigations and provisional disposition that

may be authorized, if need be, by reason of exceptional situations, is of opinion that bounties whose abolition is desirable are understood to be all the advantages conceded to manufacturers and refiners by the fiscal legislation of the States, and that directly or indirectly are borne by the public treasury.

There should be classified as such, notably—

(*a*) The direct advantages granted in case of exportation;

(*b*) The direct advantages granted to production;

(*c*) *The total or partial exemptions from taxation granted to a portion of the manufactured products;*

(*d*) *The indirect advantages growing out of a surplus or allowance in manufacturing effected beyond the legal estimates;*

(*e*) The profit that may be derived from an excessive drawback.

In addition the conference is of opinion that advantages similar to those resulting from the bounties hereinbefore defined may be derived from the disproportion between the rate of customs duties and that of consumption dues (surtaxes), especially when the public powers impose, incite, or encourage combinations among sugar producers.

One of the French delegates (p. 52) points out the premium possible, where there is government ownership of railroads (referring immediately to Germany), by special freight rates for the transportation of sugar for exportation, by revision of rates on sugar beets, fertilizers, etc.

A Russian delegate (p. 55 and note) claims that, under their system of excise control and uniform tax, there is no chance of an export bounty by reason of legal presumptions as to "net yield" and "waste" in refining.

The first Russian delegate (p. 56) returns to the question of sovereignty involved in the conference assuming to revise customs duties, and reiterates that Russia pays no premium, direct or indirect.

Beginning at page 57, the delegate of Austria-Hungary makes a statement from which I quote:

> The first delegate of Russia read a statement which may be summarized as follows: Russia does not grant any export bounty to its sugar industry. She does not intend to make any change whatsoever in her sugar legislation, even though other States that are now paying bounties should eventually be disposed to abolish them.
>
> The Russian system concerning sugar is indisputably that which deserves the greatest attention among legislations in Europe bearing upon the same subject. It is an extremely ingenious device, and the Russian Empire is indebted to it for the notable increase in the output of sugar which has taken place since it came into operation; all this with the appearance that no premium, in the narrow meaning of the word, has been applied.

(Then follows an analysis of the facts and figures showing the stimulation of production for export, which appears to me to confirm fully the statement of the scheme which I have attempted to formulate above.)

This situation gives to the manufacturer a certainty that he may demand of the consumer a price obtained in fact, a price, shall we say, which not only exceeds that on the market of the world by the whole amount of the simple tax, but which reaches in addition almost the second payment of the tax * * * Thus an actual advantage * * * is gained in consequence. The difference * * * is explained by the difference in cost of transportation and other commercial conveniences * * * The Russian commerce computes this difference with absolute certainty, and the result is that certificates of export simply constitute a quittance of the State for certain quantity of sugar sold abroad. Now these certificates are quoted on "change" at rates which vary between the above indicated limits, [and] * * * are utilized by merchants and manufacturers to facilitate the exchange of sugar among factories which by their location and interests find exportation easier [than] those which confine themselves to produce for home consumption. * * * This measure carries exactly the same effect as the export bounty given by the other States.

There is a difference in the form of protection between the systems of countries that grant bounties and that which governs the same matter in Russia. While the former issues certificates payable in coin, the latter only delivers certificates of export which are quoted on 'change.

But the essential difference in the favors accorded by Russia to the sugar industry is

> characteristic in that the disguised bounty is much higher than that known in other countries. * * *
>
> These enormous figures afford a sufficient explanation of the motive which impels Russian manufacturers to increase their output. They also explain how Russia is in a position to export, notwithstanding low rates [prices], to the markets of the world, and why she is the only State where in recent years new factories have been erected and more still contemplated. * * *
>
> The honorable first delegate of Russia himself gives us, besides, with great accuracy, the character of the tendency of Russian legislation in regard to sugar, when he says it is a question of alleviating the losses sustained by the manufacturers when they sell abroad. We believe, indeed, that such has been the tendency of Russian law, and that the result achieved has been as complete as could be wished for.

Again (p. 61) the Russian delegate formally reserves discussion upon the internal régime of Russia, stating that Russia has no intention of modifying its sugar legislation. And again (p. 69) the Russian delegate says certain formulas submitted on the subject would be more likely to receive favorable consideration through diplomatic negotiations, and once more states that he can not allow the internal home legislation of his country to be discussed by the conference; although, afterwards, he says that he does not mean to preclude an examination of the Russian system by the conference, but must refrain from taking any part in the debate.

On p. 70 *et seq.*, the Russian delegate defends Russia's position, but, it seems to us, without successful reply to the Austro-Hungarian statement; basing his argument practically upon the fact that, while production had been much stimulated, there was not much surplus, as the consumption tended to keep pace with production. He states in this form the Russian view:

> Russia's legislation, therefore, goes even further than the very resolutions of the conference, for not only does it not grant export bounties, but, on the contrary, it imposes penalty on the sugars that are produced in excess of the home-market demands.

From page 74 to page 77 there is a very interesting colloquy, especially on the part of the delegate of the Netherlands and the president of the conference, to which the Russian delegate makes a diplomatic acknowledgment, intimating in a new form Russia's unwillingness to accede to the views expressed. The "very lucid statement" of the Netherlands delegate justifies free quotation:

> The Russian system puts a limit, by virtue of governmental action, to the production for home consumption; that is to say, to the supply for the home markets. Now, if one wishes to limit the supply, it is natural that the barrier should be raised to stop the influx of foreign sugars; the surtax is therefore a necessary adjunct to the limitation of home consumption; but from that limitation arise the dangers for producers in other countries.
>
> The supply for the home market being limited, the selling price on that market is very

remunerative; each producer has therefore an interest in placing as much sugar as he can on the home market, and as the total amount to be so placed on that market is distributed among all the manufacturers in proportion to their respective output, they are incited to enhance the amount of that output. Now, such sugar as they can not sell at home must be exported; they are thus led to selling abroad, even at less than cost price, and their only object is to compensate losses sustained abroad by profits made on the home market.

For an important portion of the Russian output exportation has, as a matter of fact, become the condition which the manufacturer must meet in order to sell at home. That is the characteristic feature of the Russian system, that by which it is distinguished from all others. * * *

Is that an export bounty? Not within the technical meaning of the word; but it is an inducement, a special financial interest, which operates like a bounty. * * * Can not the conclusion be deducted that in artificial economical systems there are things that are seen and others that are not seen; things that are foreseen by the side of others that are not foreseen? The honorable delegate does not think it incumbent upon him to deal with the intention which presided over the establishment of the system, but with the effect which that system has had.

The president of the conference believes that as regards Russia the very lucid statement of

the honorable the delegate of the Netherlands seems to be in accordance with the facts, and that the passage of the definition of bounty which relates to surtaxes can be applied to the system established by Russian legislation. The passage, indeed, reads:

> Advantages similar to those resulting from bounties can be derived from the disproportion between the rates of customs duties and that of consumption duties (surtaxes), especially in places where public authorities enforce, suggest, or encourage combinations among sugar producers.
>
> It is obvious that Russian legislation incites such combinations by limiting the supply for home consumption. * * *

The president quotes from a journal of the Belgian sugar trade:

> As you see, Russian sugar legislation is very ingenious, and, I may even say, paternal. Not only does it guarantee to sugar manufacturers a very high indirect premium, but it protects them besides against the baleful consequences that an exaggeration of sugar quotations might have for themselves. For it is obvious that if the Government did not limit the maximum price of sugar, the exaggeration of the latter might bring about a decrease in consumption, and consequently the collapse of the bounty system itself.
>
> The only weak point of the Russian system is that it does not raise an insuperable barrier to the extension of production, and consequently

> to compulsory exportation; but the Government did not see fit to place the manufacturers under too absolute a tutelage. * * *

The president (p. 77) observes that his object in laying some stress on the situation which has just been defined, is solely to bring out with greater force the necessity of an agreement with Russia if it is desired to effect an international understanding.

The Austro-Hungarian delegate speaks of the "cartel" among their producers, which has been commented upon in the Russian delegate's defense, saying that the cartel in Austria-Hungary is a private institution, not concerned with exportation, but with the common interests of the producers in the interior. This cartel, after all, corresponds to that which existed in Russia before the intervention of the State. The Russian cartel had to resort to Government aid in order to put an end to the difficulties which it had made for itself (pp. 75, 76).

Finally, it is to be noted regarding this conference that Russia admits that, under the present system, the factories find themselves compelled to export:

* * * * *

> 6. Russia would decree that the quantity of sugar that the factories be allowed to supply for home consumption, under payment of the simple tax, shall henceforth be allotted in advance; for instance, according to a scale based upon the production of the preceding years, *so that factories would not longer find themselves compelled to export.* (Clause 6 of annex to procès-verbal, p. 80.)

THE BRUSSELS SUGAR CONFERENCE OF 1902.

The advance sheets of Consular Reports issued by the State Department (No. 1328, April 29, 1902) contain a letter from the United States consul at Odessa—the same consul whose report is contained in this record. In that letter it is stated that the recent Brussels Sugar Conference, meaning the conference of 1902, at which Germany, Austria-Hungary, France, Belgium, Holland, and other countries were represented, an agreement was reached, by which, if properly indorsed by the countries represented, all bounties on sugar would be abolished in 1903.

> Russia was not represented at the conference, but the action of that body was closely watched here [in Russia] and the results are even now agitating official circles. * * * The action of the conference must naturally have an effect on the sugar industry of Russia, though the official organ of the Government declares that "Russia will not enter into any kind of agreement which in any way attacks her tariff policy and the organization of her industry." Instead of such an agreement, *a series of internal measures are recommended which, it is hoped, will render the sugar industry of Russia independent of the world's market.*

It seems to us that sufficient has been adduced in the opinions of foreign experts of the highest standing as to the Russian arrangement, and in the evidence of the resistant and even secretive attitude of Russia, to justify the suggestion (*supra*) that whatever was the original intention underlying Russia's scheme, its

effect is perforce recognized and sought to be avoided by the Russian advocates. Throughout the Brussels conference the Russian delegate, either by brevity and silence or else by counter assertion, manifestly protested too much.

The Russian newspapers have commented on the situation, and our consuls in Russia have transmitted from time to time copies of articles from various journals. For instance, the Finance Recorder, of St. Petersburg, published an article which was republished in the official gazette of the Prefect at Odessa, stating that sugar exported from Russia received no kind of premium, either overt or covert; that "if one may speak at all of covert export premiums to the detriment of local consumers, this can not relate to the Russian limitation of sugar, but to the trusts and syndicates which more and more seize upon various productions, and which consider exportation solely as the means of keeping up high prices in the internal market;" that it was in "West European countries where the idea of the existence of a covert Russian premium first originated which called forth the unjust American measure." (Inclosed in dispatch from United States consulate at Odessa, Russia, dated March 4, 1901.) On this article the comment may be ventured that it only shows that the Russian scheme lends itself to combinations which work out a premium.

We submit, for what it may be worth, the following extracts from an article in the Boston Herald of August 16, 1902, contained in a cable dispatch purporting to

come from St. Petersburg as correspondence of the Associated Press:

> It has long been an open secret that the sugar legislation and policy of M. Witte, the finance minister, find no more support in Russia, outside the ranks of the sugar producers, than they do abroad. This revolt appears now to have extended even to Kieff, the center of the Russian sugar business. The newspaper, the Kievlanin, treats M. Witte's last diplomatic essays with just as marked coldness as did the foreign press.
>
> * * * Moreover, it supports the position taken by the United States, that a general law directed against all bounty-fed sugar can not be regarded as an infringement of the most-favored-nation principle.
>
> The paper sees no sense in embroilments, such as M. Witte brought about between the United States and Russia, for the sake of what he calls "a clique of favored manufacturers." It characterizes M. Witte's denial of a bounty on sugar as not corresponding to the facts of the case.
>
> "The Brussels conference," says the Kievlanin, "opened the door to the healthy competition of Russia in the world's sugar market, and Russia proceeds to slam this door in the interests of an artificial system." * * *

SOME GENERAL PRINCIPLES AS TO ALLOWANCES AND BOUNTIES.

The presentation of this case in the opinion of the Board of General Appraisers is, we submit, careful and conclusive. The board discuss the language of the

statute, review the authorities on the meaning of the term "bounty" and the extended import of the related term "grant," emphasizing the intention of Congress as liberal in its inclusions because of the phrase "directly *or indirectly*." The board analyze clearly and logically the Russian arrangement, and conclude that on the reasonable interpretation which all statutes should receive, it amounts unquestionably to an indirect bounty.

The dissenting opinion of the board, in suggesting that this country would not assent to foreign characterization of its drawback allowances and remission of internal taxes upon exportation as bounties, direct or indirect, by no means presents a controlling consideration. In the first place, it is manifest that such allowances are the mere remission of taxes, and have no indirect or concealed effects as part of an intricate scheme of Government control over production, market prices, etc. Drawback is the technical term for the refund of import duties on raw materials imported when completed articles, manufactured here from such materials, in whole or in part, go out as exports. They thus in part encourage domestic manufactures, and in part, like the remission of internal taxes, encourage the export trade. But these are not objects which as our system is devised and applied are intended to affect foreign markets (except as the enlargement of perfectly legitimate competition affects them), nor do they have that result. Furthermore, if a foreign government should object to our drawbacks or remission

of internal taxes as unduly encouraging our export trade to that government's detriment, in its own markets, and as amounting in practical effect to an indirect bounty, we might successfully urge our diplomatic resistance to that view, but I can not see that we should have conclusive *legal* ground for resisting simply because it was an ordinary tax remission or drawback in our own municipal system. *Quoad* the foreign governments and markets, it might possibly act as an indirect bounty, justifying countervailing duties; and if it so acted, I do not well see how we could make our protest effective on strictly legal grounds connected with the terminology or the precise nature of our home device.

It is significant, as bearing on this point, that in the circular of the Treasury Department (T. D., 20407) announcing the existence and amounts of certain foreign export bounties, the Argentine Republic is found to allow a certain bounty on sugars produced in that country since January 20, 1897, *and exported with benefit of drawback.*

In reference to the various allowances for the benefit of the codfisheries, as by the acts of 1792 and 1797 (1 Stat., 229; *id.* 533), the course of debate (Annals of Congress, 1792, pp. 362–401; *id.*, 1797, p. 446) shows that while the word "allowance" was used instead of the objectionable word "bounty," the benefit was plainly regarded by many public men as equivalent to or in lieu of the drawback of duties previously paid on imported salt used in preserving fish, and as equiva-

lent to a bounty. The party insistence throughout these debates in itself is evidence that "drawback," "bounty," and "allowance" were considered as convertible terms in general meaning and effect. It is true that no case decided by this court seems to sustain the view, as a strict legal view, that protective tariff duties and ordinary exemptions from taxation are to be classed as indirect bounties; but that view of them, which has often been taken in public discussion and scientific treatises, is not without force and reason. For it seems that any special favor, benefit, advantage, or inducement conferred by the Government, even if it is given as a release from burden and is not a direct charge upon the Treasury, is fairly included in the idea and meaning of an indirect bounty.

THE COUNTER ARGUMENT.

The Russian Government does not *penalize* overproduction (as stated on page 9 of the importer's brief), but invites it and regulates it and thrusts it into export, as I have endeavored to show. For neither the normal nor the additional excise is required to be paid, as the brief in that passage clearly implies, but the product is held in the factories, as export warehouses in substance, and free of all tax while thus kept out of the domestic market; and the remission on export is a bookkeeping cancellation of liability, but none the less an inducement to and premium on exportation.

Analyzing the alternatives of the producer as to "surplus sugar," "free reserve" (imp brief, p. 10), he

would manifestly not sell at home under the double excise charge; he would not store the product in his mill as an idle asset; he would not transfer to the next campaign's account (a fallacy reiterated by counsel), because clearly this would cut down that campaign's production just so much (this is evident from careful analysis of regulation 19, rec., p. 50); he *must* export. As I have pointed out *ante*, the Russian contribution to the *procès-verbal* of the Brussels Conference of 1898 admits the compulsory character of their sugar exportations. Nothing could better show the intricate and covert character of the Russian device than this illusory list of alternatives.

On page 14 of his brief counsel italicizes the statement that the transfer of the right of issue into the domestic market—admitted to be an ordinary transaction, and to receive a consideration—does not involve, as an expressed condition, the export of sugar. (See also pp. 23, 31, 38, 39.) But the man who transfers free sugar has only reserve sugar in exchange; and I submit that it is conclusively shown he *must* export and *does* export—manifestly *always* exports. The Russian scheme is irresistibly aided as to this (and is probably meant to be) by the local situation regarding the domestic markets, freight rates, shipping ports, etc.

It may be that there was some confusion in the tribunals below (opposing brief, pp. 15–23) as to the government certificate or voucher showing export merely and serving as the foundation of the remission of tax, and the certificate of transfer between mills from

reserve to free sugar. Both carry a benefit—the first freedom from tax liability, the second a domestic market right salable on 'change. Together they equal in value the highly protected, doubly and trebly protected, Government sugar price, as counsel shows (brief, p. 22). Whatever technical defects in characterization of these documents or rights the board and the lower court may reveal to counsel's very exact criticism, the salient facts remain as they state them. In these passages counsel again says: "The transfer does not involve the export of any sugar at all." We respectfully submit that every such transfer necessarily involves export.

As to the "voucher" for the remission of the *normal* tax on the export of free sugar, and as to the necessity for return to Government examination of the export certificate for remission of liability to *additional* tax on "surplus" sugar (brief, p. 17), no confusion can be imported into the question on this score. The point is immaterial and without bearing. All the taxes are ultimately remitted, from whatever account export is made and by whatever successive steps remission is accomplished. As I have said, free sugar is never really exported: if a mill wishes to ship abroad quickly, it doubtless serves expedition to have to deal only with remission of the normal excise, and so "free sugar" goes; but the same manufacturer may immediately replace the free-sugar depletion from his own reserve account. Counsel, of course, sees this, for he says (brief, p. 18): "Recognizing this [the need of expedition], the law allows him to export 'free sugar' in the

stead of 'surplus' and then replace it by transfer from 'surplus' account."

I submit that counsel's concession on page 24 of his brief (see also pp. 29, 30) is conclusive against him, and that his corollary from the concession is not sound. He says:

> It is true that the exporter "receives a money reward or gratuity whenever he exports sugar from Russia." It is equally true, however, that he receives the same money reward or gratuity when he does *not* export his sugar, but sells it on the home market. In other words, the "money reward or gratuity," if it be a bounty at all, *is not conditioned on exportation, and hence not within the purview of section 5.*

Now, the producer does not receive a money reward or gratuity when he sells on the home market. He receives a *price* on his commodity; and none the less a *price* because its rate in that market which he prefers to seek is both stimulated and checked by the government scheme. Here is counsel's fallacy—the gratuity *quoad* exportation he must grant, and because fostering and controlling paternalism connects with exportation a regulation of local supply and demand, counsel forgets that at this point we enter the different field of *market price*, however fixed. He can not set off export *gratuity* against domestic *price*, as if the latter also were a gratuity.

And this leads to another point—our Government may connect the two elements. We are not, indeed, concerned to set them off against each other, but we

may add one to the other as proving the complaint. This case does not compel assent to Russia's general protective scheme because of abstract consistency with our own policy. *Non constat* that because Russia has a protective tariff we should bow to its incidents and consequences for the reason that we also believe in protection. Counsel makes the obvious point involved in this idea (e. g., pp. 35, 37) that we give indirect bounties through our tariff and by drawbacks or remission of internal duties on exportation, and in effect asks the question whether we would submit with equanimity to their interpretation or liability as bounties abroad. I have briefly noticed this point elsewhere. I do not think it tends altogether in the direction which counsel imagines. I think it is sound to say that if, beyond the effect of domestic protection and the legitimate stimulation of our trade to foreign countries, such devices operated deleteriously on foreign markets, we should have no very conclusive ground of objection if the sovereign controlling the particular foreign market should burden our access correspondingly. So Russia promptly did in this case—in the shape of specific retaliation, it is true, through advanced import duties there, rather than because of the bounty and countervailing principle applied to our export aids. But the weapon is the same in effect, and, indeed, Russia seized a larger sword than retaliation in exact kind offered. So I conceive that while law and amenities increasingly rule international relations, assertions of national interest must

still be heard on practical and essential demands, and imperatively seek the real nature of facts bearing on intercourse. We are not called upon to falter before academic consistency; we are dealing with the Russian sugar export plan as deleterious in our markets; we are not defending our very different drawback system. Consequently we are quite honestly able to urge that when Russia imposes excessive import duties and surtaxes on sugar, creating an exclusive domestic market and sustaining a high price therein, and really fostering production while professing to limit it, puts a premium on exportation so as to injure our own scheme of protection, we may scrutinize, detect, and weight the operation at this end, and thus maintain our self-protection.

We do not penalize as "bounties" the enhanced domestic prices due to artificial limitations of the home market by a protective tariff and its legitimate incidents, but when an extreme extension of the protective idea brings deleterious results to our home interests all the way from Russia, we do properly penalize the concrete expression of these results as an indirect bounty. And if some possible extension of our protection and export provisions so operated abroad, I imagine we should have no more satisfactory answer to offer than Russia has in this case.

Hartranft v. *Wiegmann*, an authority of great weight in its proper place, is invariably invoked by importers in all customs controversies. It is now brought forward, not in reference to the meaning of an ambig-

nous tariff schedule, but to sustain a foreign policy inimical to sound law, sound economic policy, and sound ethical views on the growing significance of joint international interest in international markets. I submit that *Hartranft* v. *Wiegmann* is not to be extended into this field with the same relevancy and effect as in a balance of doubt as between 40 and 50 per cent *ad valorem* duties under a tariff schedule. Rather the doctrine of reasonable interpretation stated in *Henderson* v. *The Mayor* (92 U. S., 259, 268), and quoted by the Board of General Appraisers, should be chosen as the guide.

CONCLUSION.

The Russian scheme has two aspects, as has been stated. They are somewhat antipathetic, one being to control and limit production from the home market point of view, and the other to stimulate production for export. To secure the latter purpose the Russian Government gives a benefit or advantage which is intricate in the way it works out through its internal excise system, but is none the less an inducement and favor which amounts to an indirect bounty, or by which a bounty or grant is indirectly bestowed. It may be that an indirect bounty could not be perceived where, however, a bounty was bestowed indirectly; that is, an indirect bounty (the substantive phrase) might possibly be regarded as importing a more definite and strict meaning than the verbal phrase. On the other hand, it seems impossible that any skill in dialectics could hope to argue that while the arrangement here may be

an indirect bounty. Russia does not, however, pay or bestow indirectly a bounty. The distinction is too shadowy to maintain, and, as I have sought to indicate, if any distinction could exist, it is in favor of the idea that a country might bestow a bounty indirectly when a definite "indirect bounty" was not, however, paid. But the language of the act in its explicit and comprehensive intention is too clear to allow of any such distinction.

In the dissenting opinion of General Appraiser Tichenor the idea is advanced that the lower price of sugar for export than for home consumption in the Russian markets furnishes no evidence that the Government pays or bestows a bounty or grant on exportation; because "all manufacturing countries export their surplus or overproduction at lower prices than the articles command in the home market." But we are considering an artificial creation of a quantity for export and not a casual or genuine surplus unaffected by government stimulation, which may be and is sold in foreign markets cheaper than at home. The lower price for exported sugar in Russia as compared with sugar for domestic consumption is very significant as part of the Russian Government's plan of carrying out its two objects of imposing limitations in the home market and seeking stimulation for the export trade. The operation is not, as the dissenting opinion seems to think, merely the omission to collect the internal tax, but it is, through the government scheme, the bestowal of a consequent right and grants a bonus which accrues upon the exportation of the sugar.

The case of *United States* v. *Passavant* (169 U. S., 16) shows that this court does not accept a foreign remission of internal tax as conclusive upon its effect with respect to our own laws, and therefore the court included in the proper appraised value of imported merchandise the "bonification" of tax or remission of their ordinary excise by the German Government on exported goods. This bonification or mere remission was regarded by the court as—

> A special advantage extended by government in aid of manufactures and trade, having the same effect as a bonus or drawback. To use one of the definitions of drawback, it is "a device resorted to for enabling a commodity affected by taxes to be exported and sold in the foreign market on the same terms as if it had not been taxed at all." But the laws of this country in the assessment of duties proceed upon the market value in the exporting country, and not upon that market value less such remission or amelioration as that country chooses to allow in accordance with its own views of public policy.

It seems pertinent to say that the principle which the court had in mind in that case, of not accepting as conclusive on us as to appraised value the foreign view of its trade and taxing systems, is applicable to the effect which the Russian arrangement should be allowed to exert upon our countervailing duty law.

The decision of the Board of General Appraisers and of the circuit court of appeals shows careful consideration by the tribunal specially qualified in customs

law and trained as experts in related technical questions, and the deliberate judgment of the court, which is ordinarily final in customs cases, approving and adopting the opinion of the Board of General Appraisers. As to the opinion of the circuit court, while it inclines to the view of the dissenting opinion of the Board of General Appraisers, it is proper to say that it is based on the real or supposed necessity of prompt if not hasty decision, and the certainty of appeal. For this reason the conclusion rather than the inconsistent inclination of that court is to be regarded as showing a great preponderance of authority in the tribunals below in favor of the contention of the United States. We submit with confidence that the Russian scheme carried out under their sugar law and regulations clearly amounts to the paying or bestowing indirectly of a bounty or grant upon the exportation of sugar, which properly subjects the merchandise, upon importation into this country, to the countervailing duty prescribed by section 5 of the act of 1897.

We therefore respectfully submit that the judgment of the court below should be affirmed.

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for Respondent.

Filed Nov. 10, 1902.

In the Supreme Court of the United States.

OCTOBER TERM, 1902.

ROBERT E. DOWNS, PETITIONER,
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THE UNITED STATES.
} No. 318.

REPLY BRIEF FOR THE UNITED STATES.

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REPLY BRIEF FOR THE UNITED STATES.

It is worth while to answer a few of the statements in the petitioner's supplemental brief. It does not make the slightest difference that the Moscow manufacturer can not afford to pay more than he does to the exporting manufacturer; he pays enough to approximate the home price to the exporter—that is, a large percentage of that price. And so, through the Government scheme, the home-market man puts a bounty into the hands of the man who comes into our markets.

The Government brief did inadvertently imply that the small indivertible reserve, like the free reserve, could be put on the home market by the payment of the double excise. That immaterial error in stating the facts does not affect the argument in the slightest degree.

The Government admission of hasty reading of the *procès verbal* of course completely grants that it is unlikely that Russian delegates at the conference of 1898

were among those unnamed delegates who characterized exportation under the Russian scheme as compulsory.

As to the alternative of carrying surplus reserve over to the next campaign, it seems that a considerable amount was carried over in 1900, but that is not the point. Inactivity in the home-market demand for transfers, or exceptionally low foreign prices, may have produced this result. It is, however, simply inconceivable from the importer's own citations of the law and regulations that when upon an aggregate production of a following campaign, which includes surplus carried over, "the ministry of finance determines what percentage ratio the surplus shall bear to the output," the meaning is that free reserve becomes free sugar—except, indeed, at the cost of decreasing that campaign's production just so much. Otherwise there would be no force in the Government's limitation of production, for the doubly taxed reserve of one year would always appear on the market the next year as single excise free sugar in addition to that year's new production. The Government estimates embrace last season's surplus, but they give reserve no right of entry at home except on the general scheme of maximum production and ratio of free sugar and reserves. This constitutes no inducement to carry over as against the premium on export.

The Government cited, and not trivially, an Associated Press dispatch in a responsible journal. State Department advices have brought in since the argu-

ment copies of the Russian journal of Kiev referred to, the *Kievlanin*, containing the article quoted in the cable correspondence. Translation at the American consulate at St. Petersburg shows that the article discusses the published note of the minister of finance issued to the governments which signed the Brussels Sugar Convention, in which the minister insists that Russia pays no export premium on sugar exported; but declares that if it should be found that the Russian system disturbs international trading interests Russia would willingly participate, under certain conditions, in a discussion upon such measures as might be taken in order to prevent artificial means of influencing international markets. Commenting on this, the article says:

> The sugar note of our minister of finance gives a supplementary historical view of the norming system, tending to explain that this measure had exclusively the regulation of the home trade for object. As aforesaid, it is difficult to accept this explanation. The operation is in fact, call it as you like, the secret payment of export premiums, and has the same effect as would have a direct premium.
>
> Finally, we must mention that it is very difficult to understand the sense of this fruitless discussion with the governments which have adopted the decisions of the conference on sugar. It being impossible to convince anybody that our norming system is not equivalent to secret export premiums (the fact being too evident), the statement of a need of this

> measure for the regulation of the home market can have no value at all in the opinion of governments wanting to protect their markets from the access of foreign premium-paid sugar, because they see only the result of the measure, but not the intention which moved the promoter. The result is, of course, that, anyhow, our sugar enjoys a secret export premium. (Dispatch to Secretary of State from W. R. Halloway, consul-general at St. Petersburg, Russia, dated October 15, 1902.)

This reveals, at least, strong enough sentiment in Russia adverse to their government's view to venture an expression in a newspaper, notwithstanding the very limited freedom accorded to the press in that country.

As to the touch of indignation which counsel throws into his comments on the protective aspect of the Russian scheme, with which our own tariff ideas should make us sympathize (as he thinks), it is always to be remembered that import duties or "surtaxes" are not the only feature of the Russian scheme. They may bear upon it as adventitious aids; but in the bounty aspect of that scheme, with which alone we are concerned, they are remote or even aloof from it. They merely come in to cooperate with the independent government fiat as to home price in sustaining that price.

HENRY M. HOYT,
Assistant Attorney-General.

No. 666. 318

Office Supreme Court U.S.
FILED
MAY 19 1902
JAMES H. McKENNEY,
Clerk.

THE RUSSIAN SUGAR BOUNTY CASE.

Motion to advance.

Supreme Court of the United States.

OCTOBER TERM, 1901.

Filed May 19, 1902.

ROBERT E. DOWNS,
Appellant,

vs.

THE UNITED STATES,
Appellee.

No. 666.

MOTION TO ADVANCE.

ERNEST A. BIGELOW,
Attorney for Appellant.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1901.

ROBERT E. DOWNS, Appellant, vs. THE UNITED STATES, Appellee.	No.

MOTION TO ADVANCE.

The Supreme Court of the United States having this day granted the petition of the appellant herein for a writ of *certiorari* directed to the United States Circuit Court of Appeals for the Fourth Circuit,

Comes now the appellant and prays the Court to advance this cause and set it down for early hearing in October Term, 1902.

The application is based on the facts set forth in the following

STATEMENT.

This is a revenue case, in which the United States are concerned, and which involves matters of general public interest.

The courts below have decided that Russia pays a bounty on the export of sugar and that the Secre-

tary of the Treasury was right in imposing, under the authority of Section five of the present tariff act, a countervailing duty on such sugar on its importation into this country. The Russian government, claiming this to be a discrimination against Russian commerce, has imposed the maximum tariff on American goods, thereby destroying the larger part of our trade with Russia and inflicting heavy losses on American manufacturers. Should this honorable Court decide that the courts below were in error, the countervailing duty must be removed and this will re-establish with Russia the friendly trade relations formerly obtaining.

The decision of the courts below, that drawbacks are bounties within the meaning and scope of Section five, vitally affects the revenue system of the United States.

The American protective system is directly concerned in the ruling that the application of a similar system by Russia constitutes bounty-paying.

Wherefore, it is respectfully submitted that these grave questions should be heard and settled by this honorable Court at the earliest possible moment, and the appellant is authorized to state that the Solicitor-General of the United States concurs in the motion.

Respectfully submitted,

ERNEST A. BIGELOW,
Attorney for Robert E. Downs, Appellant.

Washington, D. C.
May 19, 1902.

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Supreme Court of the United States.

No. 318.—October Term, 1902.

Robert E. Downs, Petitioner, vs. The United States. } On writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit.

[January 5, 1903.]

This was a writ of certiorari to review a decree of the Circuit Court of Appeals, affirming a decree of the Circuit Court for the District of Maryland, which itself affirmed the action of the board of general appraisers, holding a cargo of refined sugar imported into Baltimore from Russia subject to a countervailing duty leviable upon merchandise upon which a bounty is paid upon exportation.

The proceedings were instituted by a petition filed in the Circuit Court setting up the importation of sugar on the steamship Assyria, July 6, 1899, the imposition of a countervailing duty by the collector of customs at Baltimore, and the payment of the same under protest; and the fact that the decision of the collector had been affirmed by the board of general appraisers. The grounds stated in the petition for a review are, generally, that the country from which the sugar was exported did not pay or bestow, directly or indirectly, any bounty or grant upon the exportation of said sugar.

The return of the general appraisers contained a copy of the proceedings before them, including a copy of the Russian law and regulations, a stipulation of facts, a copy of certain reports from the United States consul at Odessa, and their opinion overruling the protest, and affirming the decision of the collector. The Circuit Court affirmed the action of the general appraisers, and upon appeal to the Circuit Court of Appeals that court in turn affirmed the decree of the Circuit Court. (113 Fed. Rep. 144.)

Mr. Justice Brown delivered the opinion of the Court.

This case involves the single question whether, under the laws and regulations of Russia, a bounty is allowed upon the export of sugar which subjects such sugar, upon its importation into the United States, to an additional duty equal to the entire amount of such bounty, under the act of Congress of July 24, 1897, (30 Stat. 205,) which reads as follows:

"Sec. 5. That whenever any country, dependency or colony shall pay or bestow, directly or indirectly, any bounty or grant upon the exportation of any article or merchandise from such country, dependency or colony,

and such article or merchandise is dutiable under the provisions of this act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The net amount of all such bounties or grants shall be from time to time ascertained, determined and declared by the Secretary of the Treasury, who shall make all needful regulations for the identification of such articles and merchandise and for the assessment and collection of such additional duties."

A bounty is defined by Webster as "a premium offered or given to induce men to enlist into the public service; or to encourage any branch of industry, as husbandry or manufactures." And by Bouvier, as "an additional benefit conferred upon or a compensation paid to a class of persons." In a conference of representatives of the principal European powers, specially convened at Brussels in 1898 for the purpose of considering the question of sugar bounties, the definition of bounty was examined by the conference sitting in committee, who made the following report:

"The conference, while reserving the question of mitigations and provisional disposition that may be authorized, if need be by reason of exceptional situations, is of opinion that bounties whose abolition is desirable, are understood to be all the advantages conceded to manufactures and refiners by the fiscal legislation of the States, and that, directly or indirectly, are borne by the public treasury."

"There should be classified as such, *notably:*

"(*a*) The direct advantages granted in case of exportation.

"(*b*) The direct advantages granted to production.

"(*c*) The total or partial exemptions from taxation granted to a portion of the manufactured products.

"(*d*) The indirect advantages growing out of surplus or allowance in manufacturing effected beyond the legal estimates.

"(*e*) The profit that may be derived from an excessive drawback.

"In addition, the conference is of opinion that advantages similar to those resulting from the bounties hereinbefore defined may be derived from the disproportion between the rate of customs duties and that of consumption dues (surtaxes), especially when the public powers impose, incite or encourage combinations among sugar producers.

"It would be desirable to regulate surtaxes in such manner as to confine their operation to the protection of home markets."

A bounty may be direct, as where a certain amount is paid upon the production or exportation of particular articles, of which the act of Congress of 1895, allowing a bounty upon the production of sugar, and R. S. secs. 3015–3027, allowing a drawback upon certain articles exported, are examples; or indirect, by the remission of taxes upon the exportation of

articles which are subjected to a tax when sold or consumed in the country of their production, of which our laws, permitting distillers of spirits to export the same without payment of an internal revenue tax or other burden, is an example. (*United States* v. *Passavant*, 169 U. S. 16.)

The laws of Russia, regulating the production and exportation of sugar, are very complicated, not easily understood, and too long to justify their full incorporation in this opinion. Such, however, as bear upon the question of bounty are reproduced from a translation of the Russian law of November 20, 1895, and regulations thereunder, the accuracy of which is stipulated by the parties, together with certain statements also stipulated to be read as evidence.

The objects of the Russian law are stated in the words of a recent note delivered to the representatives of the powers at St. Petersburg, as follows: "The Russian government only regulates the distribution of sugar on its home market, its purpose being, on the one hand, to antagonize over-production of sugar, and on the other, gradually to bring about lower prices and greater consumption for that product in this country. It protects home consumption against rises in the prices, and production against sudden and considerable falls." Counsel for petitioner insists that the chief object of the government is to prevent, or at least to discourage, over-production with its attendant evils, and, to accomplish this, the law penalizes over-production by imposing thereon double the regular excise tax.

From the stipulation of facts it appears that at the opening of each sugar campaign a committee of ministers, upon a report of the Minister of Finance—

"(1.) Estimates the total consumption and the total production of sugar, and the total amount which may be put upon the market at the normal excise of one and three-fourths roubles (a current rouble being equal to about fifty-one cents) per pood (of thirty-six pounds) is definitely fixed at the total amount required for consumption." (This excise amounts to about two and a half cents per pound.) "This is known as free sugar."

"(2.) The first sixty thousand poods produced by each factory is free sugar. The balance of the production is divided into free sugar, obligatory reserve and free surplus or free reserve."

"(3.) The amount of free sugar in each factory is proportioned to its total production, as the estimated consumption is to the total production of the country. This percentage is fixed by the government according to the estimates of production and consumption."

For instance, if the ministers estimate the home consumption at thirty-five million poods, and the probable production at fifty million poods, 35–50 of the daily production of each factory will be set apart as "free sugar" by the inspector, and 15–50 (less a certain portion of "indivertible reserve") will be set apart as surplus.

"(4.) Under the Russian law therefore all sugar is divided into the three following classes:

"*a.* 'Free sugar,' which consists of a certain quantity of sugar which the Russian government permits a factory or refinery to sell for home consumption under an excise tax of 1.75 roubles per pood."

"*b.* An 'obligatory or indivertible reserve' of sugar, which consists of a certain quantity kept at each factory or refinery by order of the government and which may not be sold or removed without the special permission of the government."

The object of this reserve is to enable the Minister of Finance, in case the price in the home market exceeds the price fixed as a maximum, to authorize the issue of sugar from this reserve upon payment of the usual tax in quantities sufficient to bring about a reduction in prices.

"*c.* 'Free reserve or free surplus,' which consists of such sugar as is manufactured over and above the quantity of 'free sugar' and 'obligatory or indivertible reserve.' This sugar cannot be sold for home consumption except upon payment of the regular tax of 1.75 roubles and an additional tax of 1.75 roubles, or 3.50 roubles in all."

The Russian government also fixes and determines (*a*) the total quantity of sugar required for home consumption from all the factories and refineries, that is, free sugar; (*b*) the quantity of sugar to be kept by each factory as an obligatory reserve; (*c*) the maximum of prices during the prevalence whereof such reserve must remain intact in the factories, as well as the conditions under which the sugar in reserve can be put on the market.

2. The quantity of sugar produced in excess of the amount for home consumption (free sugar) is considered as an excess of production, and when sold is subject to a double tax.

3. This excess is distributed among the factories in proportion to the quantity of sugar produced by each of them over and above sixty thousand poods.

4. The obligatory reserve of sugar to be kept by each factory is derived and completed from the quantity of sugar in excess of the normal quantity, by taking from such excess the necessary percentage to constitute the prescribed reserve.

5. Sugar in excess of the normal production cannot be put on the home market otherwise than upon payment of an additional tax, the normal tax being payable according to the general regulation. However, it is allowed to the manufacturers to keep this excess of sugar as free reserve, and in such case, so long as the sugar does not leave the factory, they are not required to pay either the additional or regular excise.

6. The sugar in the obligatory reserve is not liable to the payment of tax until it is withdrawn by permission under the conditions indicated in section 7.

"7. In cases where the prices in the home market exceed the normal prices fixed, the Minister of Finance authorizes the issuance of sugar from

the obligatory reserve and from the free reserve (if necessary) in sufficient quantities to cause a decrease of price without payment of the additional tax, but with payment of the normal excise."

"8. In case of loss without the fault of the manufacturer, of sugar comprised in the obligatory or free reserve, the Minister of Finance is authorized to strike the lost sugar from the factory's account, without exacting the excise and additional tax charged against it."

"9. Upon the exportation from the factories of the excess of sugar the same is exempted from the excise and additional tax in full measure."

For the purpose of insuring to the domestic manufacturer a profitable home market the Russian government imposes a duty of three roubles per pood (practically prohibitive) upon imported sugar. Upon the other hand, and to insure to the consumer a reasonable price, it fixes a maximum price, during the prevalence of which the obligatory reserve must remain intact. This reserve is set aside from the production of each mill, so that when the prices in the home market rise beyond the maximum fixed, the Minister of Finance authorizes the sale of sugar from the obligatory reserve, and from the free reserve if necessary, in sufficient quantities to reduce the price, upon payment only of the normal excise. The amount of free sugar to which each factory is entitled is determined by the ministry upon the basis of the probable national consumption and the probable production, the product of every factory being divided according to the ratio between these estimates. Each manufacturer can sell his quota of free sugar upon the home market upon the payment of the normal excise of 1.75 roubles per pood. He can only place his surplus upon the home market by paying a double excise; but he may leave it in the mill where it is not subject to the tax; or he may have it transferred to the production account of the next campaign, where it will serve him to increase the amount on which his percentage of free sugar is estimated; or he may export it free from excise. The last alternative is the one usually adopted.

It frequently happens, however, that a manufacturer located near a seaport town is unable to find a market for his free sugar at home, but by a remission of the excise may export his sugar to some foreign country at a profit, while the manufacturer in an interior town may be able to dispose of a much larger amount of "free sugar" than he is entitled to put upon the market, but is located too far from the seaboard to export at a profit. As the government is interested only in the amount of free sugar produced, and not in the particular person producing it—the allotment to each factory being merely to do equal justice to all—it permits the seaboard manufacturer to export his free sugar without tax, and to assign his right to the interior manufacturer to sell as much additional free sugar as is represented by the amount exported or convert his "surplus" into "free sugar," thus saving the additional tax.

The method by which this assignment is effected is shown by the following regulations of the government "on transfers of free sugar from one mill to another in order to facilitate the exportation of the surpluses to foreign countries":

"SEC. 39. A manufacturer may cede to another manufacturer his right to place on the home market free, *i. e.*, without the payment of an additional tax, his allotted quota of sugar.

"SEC. 40. In relation to such cession the following rules may be observed:

"(1.) The manufacturer who assigns to another manufacturer his right to dispose of a certain quantity of sugar free must give notice thereof to the local excise board, which first orders to be held at the mill a quantity of free sugar equal to that about to be assigned, and immediately thereupon duly communicates with the excise board having jurisdiction of the mill in whose favor the assignment is being made.

"(2.) If the assignment is accepted by the latter mill, the quantity of free sugar in said mill is correspondingly increased by transfer from the free surplus (not from the indivertible reserve), of which a memorandum is made by the excise officers in charge; thereupon the excise board, from which the communication in relation to the assignment of free sugar has been received, is notified of the acceptance of said assignment.

"(3.) Upon receipt of the notification that the assignment has actually been accepted, the quantity of 'free sugar' at the factory by which the assignment has been made is correspondingly reduced by transferring the same into the free surplus (or free reserve), of which a memorandum is made by the excise officer in charge.

"(4.) The reduction of the quantity of free sugar at one mill and the increase thereof by assignment at another mill are entered in the proper books of the mill."

It thus appears that, by a series of book entries carried on under the direction of the local excise board having jurisdiction of the mill of the assignor, and the corresponding board having jurisdiction over the mill of the assignee, and without any actual transfer of sugar from one mill to the other, or the issue of a certificate, the "surplus" sugar of the assignee manufacturer is converted into "free sugar," which he can sell at the normal excise, and the "free sugar" of the assignor manufacturer has become "surplus," which he can place on the home market by paying the double tax, (practically prohibitory) leave in the mill where it is not subject to the tax, have transferred to the production account of the next year, or export to a foreign country.

Should the assignor manufacturer deem it best to adopt the last alternative of exporting, he will obtain in a foreign market a price somewhat less than he would have obtained had he sold his sugar as free in the local market. Hence, the consideration which the interior manufacturer must pay to induce the other to transfer his rights to free sugar to him, is measured by the difference between the home market price and that prevailing in the foreign market. With regard to this, we quote from the report of the American consul appearing in the record:

"As the first and second methods of disposing of his sugar (by selling under the double tax or exporting) are less advantageous than placing the article on the home market as free sugar, the manufacturer who ceded his right received from the manufacturer who acquired the right the price per pood agreed upon between them, which is usually determined by the differences existing at the moment between the price obtainable for the sugar on the home market and the price obtainable by sale abroad. This is what is termed a *transfer*. Dependent upon the fluctuations in the price of sand sugar in Russia and abroad, the price for these transfers also varies; therefore, the person who sells or transfers the right of issue in the home market, charges several copecks more than the difference mentioned above. This is done on account of the risk that is taken that sugar prices abroad may fall, and also for the trouble involved in exporting, &c. Example: The price of sand sugar at a station in the southwestern region (*a*) for the home market, Rs. 4.25 per pood, or without excise Rs. 2.50; (*b*) for abroad, Rs. 1.25. Consequently, the difference or value of transfer is Rs. 1.25; but in that case, for the reasons given, Rs. 1.28 to 1.30 is paid for the transfer."

While it is true that this transfer of the right of issuing free sugar does not involve as a condition thereto the export of any sugar whatever, the only condition being that the assignor's free sugar shall diminish *pari passu* with the increase of the assignee's, yet, as a matter of practice, the object of making such transfer appears to be to increase the amount which the assignor *may* export, although he may, as a matter of fact, find it more profitable to leave his surplus in the mill to be transferred to the production account of the following year. If his factory be located far inland, he will be likely to do this, while if he be near a seaport town, he will probably prefer to export his surplus, even at the lower prices obtainable abroad.

Provision is made for the manner of exporting sugar to foreign countries by the following regulations, the first of which (section 37) applies to free sugar, and the second of which (section 38) applies to the free surplus:

"I.—*On the Manner of Exporting Sugar to Foreign Countries.*

"SEC. 37. *Free sugar*, exempt from the additional tax, may be exported to foreign countries in compliance with the rules heretofore existing; the exportation of such sugar requires, however, a permit from the excise office, which must be duly endorsed on the bill of lading, as set forth in sections 31 and 34 of these instructions.

"NOTE.—The mill owner is allowed to export free sugar (this rule does not apply to purchased sand or refined sugar produced from purchased sands) on account of his surplus for the same campaign. For this purpose the export is made in the manner hereinafter, in subdivisions 1 to 4 of section 38, set forth, except that the excise office notes on the certificate 'free sugar,' and requires no security for the *additional* tax. Upon the return of the certificate with the custom-house export mark, the excise office credits the exported quantity of sugar to the free surplus of the mill, if such there be, and increases by a like quantity the allowance of free sugar, of which a memorandum and an entry in the book must be made.

"SEC. 38. In relation to exports of the *free surplus* (free reserve) of sugar from the mills, the following special order must be observed, in addition to the rules now in force.

"(1) The transport of sugar from the *free reserves* intended for export to foreign countries must be shipped in the presence of the excise authorities, who, after examining the transport, endorse on the bill of lading accompanying the same that said sugar has been removed from the free reserve for exportation abroad, and issue a separate certificate to the mill owner, setting forth the name of the mill, the bill of lading accompanying the transportation, and the statement of the weight of the sugar contained therein.

"(2) The *additional tax*, at the rate of rubles 1.75 per pood, chargeable to the exported sugar, must first be secured in full by *cash*, excise credit vouchers, or such funds as are accepted as security for the tobacco excise, or by the stock of sugar, free or of the free reserve, on hand in the factory, as set forth in section 30 of these instructions. (The 75 kopeck portion of the excise due on the exported sugar is to be paid or secured in accordance with the rules now in force.)

"(3) The custom-house duly examines the exported shipment of the free surplus, the tare previously certified by the excise office being accepted at its actual weight as per bill of lading annexed to the export certificate. After forwarding the transport across the border, the custom-house delivers to the shipper, in lieu of refunding the *excise*, (not the *additional* tax, however,) a voucher crediting the same on his sugar excise account, and marks down by endorsement on the certificate of the excise office presented by him (subdivision 1) the time of export, the net weight of the exported sugar, and the credit voucher issued stating the amount of excise allowed.

"(4) The certificate with the endorsement of the custom-house must be returned by the mill owner to the excise office within six months from the date the sugar was shipped from the mill, whereupon the *additional* tax charged upon the exported sugar is remitted by the excise office, by a corresponding credit in proportion to the quantity of sugar exported, and the deposits securing the same are released. If the certificate is not returned within said time, or does not account for the full quantity of sugar which was to have been exported, then, upon the failure of the mill owner to pay within two weeks the additional tax due, the excise office must proceed with the collection thereof in regular manner."

It thus appears that free sugar, which may be sold in Russia, at the normal excise of R. 1.75 per pood, may be exported under a permit from the excise office, and upon the return of the free sugar certificate with the custom-house export mark, the excise office credits the exported quantity of sugar to the free surplus of the mill. With the free surplus, however, which is subject not only to the normal excise of R. 1.75 per pood, but to an additional tax of the same amount, a somewhat different course is pursued. The *additional* tax chargeable to the exported sugar must first be secured in full by cash or its equivalent, and an export certificate delivered, which must be returned by the mill owner to the excise office within six months, whereupon the additional tax is remitted by the excise office by a corresponding credit in proportion to the quantity of sugar exported.

For the *normal* excise, a voucher crediting the same on the sugar excise account is delivered, as in the case of free sugar.

The following facts were stipulated:

"5. That the sugar which was imported in this case, and which is covered by this protest, consists of free sugar as above defined, and would have been subject to an excise tax of 1.75 roubles per pood if sold in Russia."

"6. That upon the exportation of said sugar from Russia the Russian government, under its laws and regulations, released said sugar from said tax of 1.75 roubles either by a refund of the tax or a cancellation of the indebtedness, or otherwise."

"7. That in addition to remitting said excise tax the government issued to the exporter a certificate certifying that he had exported such a quantity of so-called free sugar; that the said certificates have a substantial market value, and are transferable, and that the price thereof is usually determined by the difference existing at the time between the price obtainable for sugar on the home market and the price abroad."

8. That said certificates are sold to and used by sugar manufacturers or refiners, who are thereby enabled to transfer from their "free reserve," or "free surplus," to their "free sugar" an amount of sugar equal to the amount shown by said certificates to have been exported, which amount may then be sold for domestic consumption on paying the ordinary tax of 1.75 roubles per pood (to which free sugar is regularly subject) instead of a tax of 3.50 roubles per pood.

This appears to be the real function of the free sugar export certificate—to obtain a transfer of sugar from "surplus" to "free sugar" account. This free sugar export certificate being negotiable, any holder of the same is at liberty to call for the transfer of a like amount of sugar from surplus to free sugar account, and is thereby enabled to put his sugar upon the market at the normal excise instead of the double tax imposed upon surplus.

By this arrangement neither the total amount of free sugar allowed to the two manufacturers nor the total export has been increased, since what the assignor exports the assignee sells as free sugar. The assignee, however, has secured the large profits of the sale of his sugar at home and saved his freight to the coast, while on the other hand the seaport merchant has sacrificed those profits by exporting his sugar at a less remunerative price. It follows that the price which the seaport manufacturer receives for his export certificate is the difference between what he would have received had he sold his free sugar at home and the price he would have obtained on the foreign market. For instance, if the price in the home market is R. 2.50 per pood, and in the foreign market R. 1.25, the certificate will be worth the difference between these two, and the exporter will

receive the same gross amount as if he had not exported his free sugar, but had sold in the home market. Thus:

By sale at home he obtains the market price.....R. 2.50
By sale abroad he obtains the foreign market price.....R. 1.25
Also the price of certificate.....R. 1.25
———R. 2.50

In practice, of course, as in the case of all commodities, the market value of these certificates must vary according to the demand and supply, but the theory underlying the transaction is always this, that the exporter shall suffer no loss because he has exported his free sugar instead of selling it in the home market.

It is practically admitted in this case that a bounty equal to the value of these certificates is paid by the Russian government, and the main argument of the petitioner is addressed to the proposition that this bounty is paid, not upon exportation, but upon production. The answer to this is that every bounty upon exportation must, to a certain extent, operate as a bounty upon production, since nothing can be exported which is not produced, and hence a bounty upon exportation, by creating a foreign demand, stimulates an increased production to the extent of such demand. Conversely, a bounty upon production operates to a certain extent as a bounty upon exportation, since it opens to the manufacturer a foreign market for his merchandise produced in excess of the demand at home. A protective tariff is the most familiar instance of this, since it enables the manufacturer to export the surplus for which there is no demand at home. If there were no tariff at all, and the expense of producing a certain article at home were materially greater than the expense of producing the same article abroad, there would be none produced, and, of course, none to export. But with the aid of such tariff production would be stimulated and might become so much greater than the home demand, that a manufacturer would look to foreign markets for his surplus. In the case of Russian sugar the effect of the import duties is much enhanced by the fact that, the supply of free sugar from the home market being limited, the selling price is very remunerative, and each producer has therefore an interest in placing as much sugar as he can on the home market; and as the total amount of free sugar is distributed among all the manufacturies in proportion to their entire production, it may become to their interest to export their surplus even at a loss, if such loss can be compensated by the profits on sugar sold in the home market. This would not make the tariff a bounty upon exportation, but a mere incident to its operation upon production. But, if a preference be given to merchandise exported over that sold in the home market, by the remission of an excise tax, the effect would be the same as if all such merchandise were taxed, and a drawback repaid to the manufacturer upon so much as he exported.

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If the additional bounty paid by Russia upon exported sugar were the result of a high protective tariff upon foreign sugar, and a further enhancement of prices by a limitation of the amount of free sugar put upon the market, we should regard the effect of such regulations as being simply a bounty upon production, although it might incidentally and remotely foster an increased exportation of sugar; but where in addition to that these regulations exempt sugar exported from excise taxation altogether, we think it clearly falls within the definition of an indirect bounty upon exportation.

The argument of the petitioner in this connection is that, if a manufacturer sell his free sugar on the home market, he receives the home market price of, say, R. 2.50 per pood; whereas if he export his "free sugar," he receives the foreign price, say, R. 1.25 and R. 1.25, the price of his export certificate. "In other words, by exporting his 'free sugar' and selling his export certificate, the exporter receives exactly the same amount he would have received had he sold his 'free sugar' on the home market. All producers fare equally well before the law. Those who sell at home receive the high prices insured on the home market, while those who export what is the equivalent thereto:—the foreign market price plus the price of the export certificate. Hence there is no bounty on exportation, for the reward of the manufacturer is not conditioned on exportation, nor is it greater than it would have been had he not exported. Bounty on production this reward may be, but certainly not bounty on exportation, for it is a contradiction in terms to call that a bounty on exportation which is received in one form or another by all manufacturers alike, whether they export or do not export."

It is true that when a manufacturer exports free sugar for account of surplus, and thereby avoids the necessity of giving security for the additional tax, he obtains an export certificate which he may use to obtain the transfer of an equal amount of "surplus" sugar to "free sugar" account. This right of issue of free sugar into the home market at the normal tax he transfers when he sells his export certificate. The certificate, however, none the less represents a bounty upon exportation, although it *may* be used for the purpose of obtaining a transfer of a certain amount of surplus sugar to the free sugar account for the home market.

But the fact that he receives the same amount, whether the goods are exported or sold at home, is not the proper test whether a bounty is paid upon exportation. If no bounty at all were paid all sugar, or at least all "free sugar," would pay the same tax, whether sold at home or exported abroad; and in this case the free sugar upon which the tax is remitted when exported would go abroad burdened with an excise tax of R. 1.25 per pood, which would prevent the manufacturer from selling it at such a price abroad as would enable him to realize a profit. The amount he re-

ceives for his export certificate, say R. 1.25, is the exact amount of the bounty he receives upon exportation, and this enables him to sell at a profit in a foreign market. All manufacturers would prefer to sell at home if they could realize a greater price than by selling abroad, but if by being paid a drawback, or by a remission of taxes, they can find a profitable market in a foreign country, so much sugar as is not needed at home will be sent abroad.

The details of this elaborate procedure for the production, sale, taxation and exportation of Russian sugar are of much less importance than the two facts which appear clearly through this maze of regulations, viz: that no sugar is permitted to be sold in Russia that does not pay an excise tax of R. 1.75 per pood, and that sugar exported pays no tax at all. The mere imposition of an import duty of three roubles per pood, paid upon foreign sugar, is, like all protective duties, a bounty, but is a bounty upon production and not upon exportation. When a tax is imposed upon all sugar produced, but is remitted upon all sugar exported, then, by whatever process, or in whatever manner, or under whatever name it is disguised, it is a bounty upon exportation.

The difference in price between Russian sugar sold at home and abroad is thus shown by the delegate of Austria-Hungary at the Sugar Conference of 1898 by the following quotations from the Odessa exchange under date of June 10, 1898:

	Francs per 100 kilos.	Cents per pound.
For Russia: 5.8 rubles per pood, say	82.70	7.25
For export: 1 73 rubles per pood, say	28.16	2.47
Hence a difference: 3.35 rubles per pood, say	54.54	4.78
Deducting the tax: 1.75 rubles per pood, say	28.49	2.50
There remains a discrepancy of 1.60 per pood, say	26.05	2.28

"The same merchandise, on the same date, and at the same place, thus commanded a different price according to its destination, and the difference amounted to 26.05 francs per 100 kilos (2.28 cents per pound).

"If we are to investigate the reasons which may impel Russian manufacturers to produce more sugar than is needed for home consumption, and to bring the surplus for exportation down to a comparatively much lower price, we shall find the explanation of this strange phenomenon in the legislative system of Russia. Such is our intimate conviction."

The object of issuing certificates of sugar exported seems to have been merely to enable the exporting manufacturer to obtain the best price for the privilege he assigns to the interior manufacturer of putting an equal amount of free sugar upon the market by assigning the certificates to the one who would offer the best price. In this connection the Circuit Court

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of Appeals found: "That the Russian exporter of sugar obtained from his government a certificate, solely because of such exportation, which is worth in the open market of that country from R. 1.25 to R. 1.65 per pood, or from 1.8 to 2.35 cents per pound. Therefore we hold that the government of Russia does secure to the exporter of that country, as the inevitable result of that action, a money reward or gratuity whenever he exports sugar from Russia." We all concur in this expression of opinion.

The decree of the Circuit Court of Appeals is, therefore,

Affirmed.

True copy.

Test:

Clerk Supreme Court, U. S.